

FINAL
Generic Environmental Impact
Statement to Assess Lead
Poisoning Prevention Ordinance
Alternatives for the
City of Rochester, New York

December 2005

Prepared for:

CITY OF ROCHESTER
Lead Agency: Mayor William A. Johnson, Jr.
City Hall, 30 Church Street
Rochester, New York 14614

Lead Agency Acceptance Date: December 1, 2005

Prepared by:

ECOLOGY AND ENVIRONMENT, INC.
368 Pleasant View Drive
Lancaster, New York 14086

T

able of Contents

Section	Page
Executive Summary	1
1 Introduction	1-1
1.1 Background	1-1
1.2 Description of the Proposed Action	1-2
1.3 Purpose and Need.....	1-3
1.3.1 Exposure to Lead.....	1-4
1.3.2 Symptoms/Treatment	1-5
1.3.3 Lead Poisoning Effects on Learning	1-6
1.3.4 Lead Poisoning Effects on Delinquent Behavior	1-6
1.3.5 Lead Poisoning and the Economy	1-6
1.4 SEQR Process	1-7
2 Existing Statutes, Regulations, Practices, Programs, and Policy	2-1
2.1 Review of Existing Federal, State, and Local Laws and Regulations	2-1
2.1.1 Federal	2-2
2.1.2 New York State	2-4
2.1.3 Local	2-5
2.2 Review of Existing Lead Hazard Control Practices	2-5
2.2.1 Lead-Safe Work Practices (LSWP)	2-5
2.2.2 Lead Hazard Control	2-6
2.2.2.1 Abatement	2-7
2.2.2.2 Interim Controls	2-7
2.2.2.3 Standard Treatments	2-8
2.2.2.4 Interim Control Maintenance	2-8
2.2.3 LSWP Training Resources	2-8
2.3 Existing Lead Initiatives.....	2-9
2.3.1 City of Rochester Lead Hazard Control Initiatives	2-9
2.3.1.1 “City LEAD”	2-9
2.3.1.2 Other City Initiatives	2-9
2.3.2 Monroe County Lead-Based Paint Initiatives.....	2-10
2.3.2.1 Childhood Lead Poisoning Prevention Program.....	2-10
2.3.2.2 HUD Lead Hazard Control Grant	2-11

Table of Contents (cont.)

Section	Page
2.3.2.3 Healthy Neighborhoods Grant	2-11
2.3.3 Community-based Initiatives.....	2-11
2.3.3.1 The Coalition to Prevent Lead Poisoning	2-11
2.3.3.2 “Get the Lead Out”	2-12
2.3.3.3 “Dust Wipes for All”	2-12
2.4 Review of Efforts in Other Cities that Have Adopted Similar Lead Ordinances.....	2-12
2.4.1 Milwaukee, Wisconsin	2-13
2.4.1.1 Pilot Ordinance	2-13
2.4.1.2 Evaluation of Pilot Ordinance.....	2-13
2.4.2 New Orleans, Louisiana	2-15
2.4.3 New York City, New York.....	2-16
2.4.4 Other Ordinances/Statutes	2-17
2.4.4.1 San Francisco, California.....	2-17
2.4.4.2 Massachusetts	2-17
2.4.4.3 Cleveland, Ohio	2-17
3 Alternatives.....	3-1
3.1 Alternative 1: Proposed Chapter 60: Lead Poisoning Prevention Code (Introductory #20, January 18, 2005)	3-1
3.1.1 Description of Alternative 1	3-1
3.1.2 Evaluation of Alternative 1	3-2
3.2 Alternative 2: First Proposed Amendment to Chapter 90: Lead-Based Paint Poisoning Prevention (Introductory #21, January 18, 2005).....	3-4
3.2.1 Description of Alternative 2	3-4
3.2.2 Evaluation of Alternative 2	3-4
3.3 Alternative 3: Second Proposed Amendment to Chapter 90: Lead-Based Paint Poisoning Prevention (NYS Coalition of Property and Business Owners).....	3-5
3.3.1 Description of Alternative 3	3-5
3.3.2 Evaluation of Alternative 3	3-5
3.4 No-Action Alternative	3-6
3.4.1 Description of the No-Action Alternative	3-6
3.4.2 Evaluation of the No-Action Alternative	3-6
3.5 Key Variations and Differences in the Proposed Lead Poisoning Prevention Ordinances	3-7
3.6 Summary of Alternatives.....	3-7
4 Existing Environment	4-1
4.1 Methodology.....	4-1
4.2 Land Use.....	4-1
4.3 Community Facilities and Resources	4-2
4.4 Certified Lead Abatement and Evaluation Firms	4-2
4.5 Socioeconomic	4-5

Table of Contents (cont.)

Section	Page
4.5.1	Population..... 4-5
4.5.2	Economy, Employment, Poverty..... 4-6
4.5.3	Tax Revenues 4-7
4.5.4	Neighborhood Designations 4-8
4.6	Housing 4-11
4.6.1	General Housing Data 4-11
4.6.2	Property Values 4-12
4.6.2.1	Tax Foreclosure 4-14
4.6.2.2	Mortgage Foreclosure 4-15
4.6.3	Housing Market Characteristics and Affordability 4-16
4.6.3.1	Rental Market..... 4-16
4.6.3.2	Description of Housing Affordability 4-16
4.6.3.2.1	Assessment of Income and Housing Costs..... 4-17
4.6.3.2.2	Housing Supply 4-18
4.6.3.2.3	Assisted Housing: Public Housing, Section 8, and Privately-Owned Subsidized Housing 4-18
4.7	Human Health..... 4-19
4.7.1	Lead Exposure Pathways..... 4-20
4.7.2	Distribution of Documented Lead Poisoning Cases..... 4-20
4.8	Historic and Architectural Resources 4-21
4.9	Air Quality..... 4-22
5	Impact Analysis 5-1
5.1	Methodology..... 5-1
5.2	Land Use..... 5-1
5.3	Community Facilities and Resources 5-2
5.4	Certified Lead Evaluation Firms 5-2
5.5	Socioeconomic 5-5
5.5.1	Population..... 5-5
5.5.2	Economy, Employment, Poverty..... 5-5
5.5.2.1	Lead Inspections, Remediation, and Abatement..... 5-5
5.5.2.2	Laboratory Analysis 5-6
5.5.2.3	City Processing and Lead-Hazard Database 5-6
5.5.2.4	Retail Spending on Home Improvement..... 5-7
5.5.2.5	Property Owners and Property Management Services..... 5-7
5.5.2.6	No Action Alternative..... 5-7
5.5.3	Tax Revenues 5-8
5.5.4	Specific Impacts to Study Area Neighborhoods..... 5-9
5.6	Housing 5-10
5.6.1	Potential for Abandonment 5-11
5.6.1.1	Owner-Occupied Housing..... 5-11
5.6.1.2	Rental Housing..... 5-14
5.7	Human Health..... 5-21
5.7.1	Affected Properties..... 5-23
5.7.2	Exempt Properties 5-24

Table of Contents (cont.)

Section	Page
5.7.3 What is Required if Deteriorated Lead-based paint or Presumed Lead-based Paint or Other Lead-based Paint Hazards are Detected During Inspection?	5-24
5.7.4 Clearance Standards	5-25
5.7.5 Disclosure and Other Requirements Upon Property Transfer.....	5-25
5.7.6 Achieving Lead Safe Goal by 2010.....	5-26
5.7.7 Summary of Alternatives.....	5-26
5.8 Historic Resources.....	5-27
5.9 Air Quality.....	5-28
6 Cumulative Impacts	6-1
7 Other Considerations.....	7-1
7.1 Consistency with Federal, State and Local Laws, Policies, and Regulations.....	7-1
7.2 Irreversible and Irretrievable Commitment of Resources	7-1
7.3 Unavoidable Adverse Effects	7-2
7.4 Growth-inducing Aspects of the Proposed Action.....	7-2
7.5 Effects on the Use and Conservation of Energy.....	7-2
8 References.....	8-1
9 List of Preparers.....	9-1
Appendix	
A SEQR Documentation	A-1
B Neighborhood Descriptions	B-1
C Economic and Housing Impacts Methodology	C-1
D Blood Lead Screening Data 1993-2004.....	D-1
E DGEIS Public Comment Response Table.....	E-1
F Alternative Lead Poisoning Prevention Ordinances Proposed	F-1

List of Tables

Table	Page
3-1 Comparison of Alternative Lead Poisoning Prevention Ordinances	3-8
4-1 Land Use	4-2
4-2 Population and Demographics	4-5
4-3 Resident Employment for the City of Rochester	4-6
4-4 Unemployment Statistics	4-7
4-5 Individuals Living Below the Poverty Level (by race)	4-7
4-6 City of Rochester Revenues and Expenditures (in thousands of dollars)	4-8
4-7 Study Area Neighborhoods	4-11
4-8 Housing Stock Data for the City of Rochester	4-12
4-9 Assessed Value of Taxable Property (in thousands of dollars)	4-13
4-10 Tax Foreclosure and Disposition Statistics for Rochester, New York	4-15
4-11 Residential Mortgage Foreclosure for Rochester, New York	4-15
4-12 Cost Burden and Severe Cost Burden by Tenure and Income Level	4-17
5-1 Rental Units at Highest Risk in the City of Rochester	5-4
5-2 Estimated Demand for Lead-based Paint Inspections under Alternative 1	5-4
5-3 Estimated Demand for Lead-based Paint Inspections under Alternatives 2 and 3	5-5
5-4 Owner Occupied Housing Summary Table	5-12
5-5 Potential Rental Housing Impacts Using a One-time Cost of \$7,500 (amounts in dollars)	5-16

List of Tables (cont.)

Table	Page
5-6 Potential Rental Housing Impacts Using a One-time Cost of \$3,500 (amounts in dollars)	5-21

List of Figures

Figure		Page
4-1	Land Use within the City of Rochester	4-3
4-2	Study Area Neighborhoods	4-9
4-3	Average Sales Prices for One-, Two-, and Three-family Year-round Residences in the City of Rochester	4-13
4-4	Average Sales Prices for One-, Two-, and Three-family Year-round Residences in Monroe County	4-14
4-5	Properties where Lead Hazards were Identified as a Result of an Elevated Blood Lead Investigation – 1993-2004	4-23
4-6	Children Exhibiting Elevated Blood Levels $\geq 10 \mu\text{g/dL}$ in 2004	4-25

List of Abbreviations and Acronyms

ACCLPP	Advisory Committee on Childhood Lead Poisoning Prevention
AQI	Air Quality Index
ATSDR	Agency for Toxic Substances and Disease Registry
CAFR	Comprehensive Annual Financial Report
CDC	Centers for Disease Control and Prevention
CLPP	Childhood Lead Poisoning Prevention
CO	carbon monoxide
EAF	Environmental Assessment Form
EPA	United States Environmental Protection Agency
GEIS	Generic Environmental Impact Statement
GLO	Get the Lead Out
HCV	Housing Choice Voucher
HEPA	high efficiency particulate air
HUD	U.S. Department of Housing and Urban Development
LBPPPA	Lead-Based Paint Poisoning Prevention Act
LSWP	Lead-Safe Work Practices
m	meter
MCDPH	Monroe County Department of Public Health
µg/dL	micrograms per deciliter
MSA	metropolitan statistical area

List of Abbreviations and Acronyms (cont.)

NET	Neighborhood Empowerment Team
NYCRR	New York State Codes, Rules and Regulations
NYSDEC	New York State Department of Environmental Conservation
OSHA	Occupational Safety and Health Administration
REC	Rochester Environmental Commission
SEQR	State Environmental Quality Review
SO ₂	sulfur dioxide
TANF	Temporary Assistance for Needy Families
TSCA	Toxic Substances Control Act

Executive Summary

Description of the Proposed Action

The proposed action evaluated in this Generic Environmental Impact Statement (GEIS) is the adoption of a Lead Poisoning Prevention ordinance as part of the Municipal Code of the City of Rochester. The ordinances under consideration each require that the presence of deteriorated paint in or on pre-1978 residential structures be evaluated and appropriately addressed in order to prevent human exposure to lead hazards. The Mayor of the City of Rochester, as lead agency for this action, which is reviewable under the State Environmental Quality Review (SEQR) Act, has determined that a GEIS be prepared as an appropriate means to objectively compare and evaluate potential impacts of the proposed ordinances.

Following issuance of the Draft GEIS on September 9, 2005, the City held a 30-day public comment period, which included a public hearing held on September 26, 2005 where the Rochester Environmental Commission (REC) accepted public comments. Notice of the availability of the Draft GEIS was published in local newspapers and the Environmental News Bulletin. The public comment period and public hearing provided interested parties with the opportunity to provide comments on the draft document. All oral and written comments received on the Draft GEIS were reviewed by the REC and provided to the lead agency for review and response. All substantive and relevant comments were responded to in the development of this Final GEIS (see Appendix F – Comment Response Table). In instances where the Draft GEIS was updated with information, this Final GEIS provides a line in the margin indicating the change made.

The intent of each alternative ordinance evaluated in this GEIS is to prevent exposure of residents to lead-based paint and other lead hazards; however, the alternatives vary in detail and, in some cases, with respect to their essential components. Each alternative ordinance focuses on critical elements that form a basis for comparing the ordinances. Among other things, the major components of the ordinances include the following:

- Property types affected;
- How inspections will be triggered and how lead hazards will be identified;

- Who will perform the inspection, and who will be responsible for the cost of the inspection;
- The scope of the inspection;
- Clearance examination standards for determining the success or failure of interim controls and/or abatement work in eliminating identified lead-paint hazards in homes;
- Who will provide notice to property occupants regarding interior and/or exterior lead-based paint hazard reduction work;
- How occupants will be protected during work site preparation and hazard reduction work;
- Safe work practices for lead-based paint disturbance;
- Tenant protections, including how occupants will be protected against retaliatory eviction, and what additional protections, rights, and causes of action exist (if any); and
- Disclosure and other requirements upon property transfer.

Environmental Setting

The geographic location for this GEIS is the city of Rochester, Monroe County, New York. The city of Rochester, as with many older cities in the U.S., has a significant stock of older residential homes. According to U.S. Census 2000 statistics (United States Census Bureau 2005), approximately 95% of the city's housing units were constructed prior to 1980, 89% of which were occupied in 2000. Approximately 67% of these structures were been built prior to 1950. These include both owner-occupied homes and rental units. The housing stock in the city of Rochester is primarily a mix of single- and two-family homes, with limited number of larger, multi-unit complexes.

The Rochester Metropolitan Statistical Area (MSA) is experiencing both population loss and urban sprawl. These trends have been occurring over the past several decades. In the period between the 1990 and 2000 census, there was population growth in the Rochester metropolitan statistical area (MSA); however, the population in the city itself declined by 5%.

Due to potential lead paint hazards in Rochester's older housing stock, occupied homes constructed prior to 1978 pose a potential threat to city residents, especially younger children (6 years or younger), from lead poisoning. From a public policy perspective, lead-based paint is often presumed to be present in homes constructed prior to 1978, since the U.S. Consumer Product Safety Commission banned the use of lead-based paint in that year.

Childhood lead poisoning is a serious public health threat in the city of Rochester and has been identified by the Director of the Monroe County Department of Public Health (MCDPH) as one of the County's highest priority local public health issues. Childhood lead exposure can occur because of contact with dirt, dust, and fumes containing lead. Young children who ingest lead-contaminated dust, dirt, or paint chips, or who come into contact with surfaces within their reach (e.g., doors, windowsills, porch decks) that are painted with lead-based paint, are potentially exposed to a significantly increased risk of developing long-lasting cognitive, physiological, and behavioral problems. All of these are important and contributing factors to the lead poisoning issue in the city of Rochester.

According to the MCDPH, 13,259 children were screened for blood lead levels in 2001 (MCDPH 2005). Of those screened, 1,179, or 8.9%, had blood lead levels at or above 10 micrograms per deciliter ($\mu\text{g}/\text{dL}$), a concentration that is above the Centers for Disease Control and Prevention's (CDC's) acceptable level for young children (CDC 2005). This percentage is substantially higher than the statewide average, which in 2001 was 2.7% (NYSDOH 2004). Many of the children identified as having elevated lead blood levels reside in sections of Monroe County where older housing is prevalent and poverty rates are the highest (Lanphear et al. 1998). A detailed discussion of housing and public health issues is provided in Sections 4 and 5 of this GEIS.

Purpose and Need

Lead poisoning prevention ordinances are being proposed in the city of Rochester to reduce exposure of residents (especially those age 6 years and under) to lead by requiring that the presence of deteriorated paint in and on pre-1978 residential structures be evaluated and appropriately addressed. In doing so, human exposure to lead-based paint hazards will be reduced and controlled.

The need for a lead ordinance is based on the significant impact that exposure to lead can have on the cognitive, physiological, and behavioral abilities of residents, especially young children. A detailed discussion of the need for a lead poisoning prevention ordinance in the city of Rochester is presented in Section 1 of the GEIS. The discussion presents the basis for developing a new code, focusing primarily on the affects of lead poisoning on human health, academic achievement, economic achievement, and the criminal justice system. The discussion presents only a summary of the extensive research that has been conducted on this issue. Each of the sources referenced examine various aspects of lead poisoning in depth and document the need for a lead poisoning prevention ordinance.

Alternatives Considered

This GEIS compares and evaluates two lead poisoning prevention ordinance alternatives that have been introduced by sponsors in the city of Rochester. These proposals include the following:

- Enactment of a new Chapter to the Code of the City of Rochester (“the Code”), titled “Chapter 60: Lead Poisoning Prevention Code,” introduced by Councilman Mains (Introductory No. 20 of 2005); and
- A proposed amendment to Chapter 90 of the Code to add a new article titled “Lead-Based Paint Poisoning Prevention,” introduced by Mayor Johnson (Introductory No. 21 of 2005).

In addition, this GEIS evaluates a third alternative ordinance offered by the New York State Coalition of Property Owners and Businesses in their scoping comments, as well as the No Action Alternative.

Section 3 of this GEIS provides a detailed comparison of the critical elements of the alternative ordinances evaluated.

Significant Beneficial and Adverse Impacts

The City of Rochester’s adoption of one of the proposed lead poisoning prevention ordinances will have both potentially beneficial and adverse impacts. The most significant impacts are those based on human health and housing in the city of Rochester; however, several other topic areas are addressed in this GEIS.

Economy. In general, Alternative 1 would have a greater positive economic impact on the community than either Alternatives 2 or 3 when analyzing such criteria as the need for certified lead evaluation firms and laboratory analyses to support lead sampling and analysis. This is primarily due to Alternative 1 impacting more residential units than either Alternatives 2 or 3. For a detailed discussion of specific areas of economic impact by alternative, refer to Section 5 of this GEIS.

Under the No Action Alternative, there are potential negative economic impacts associated with taking no action regarding the lead poisoning problem in children in the city of Rochester. The potential impacts could include the following:

- Lost future income,
- Increased health care costs,
- Need for special education,
- Increased burden on the criminal justice system,
- Cost for state infrastructure for lead poisoning prevention efforts, and
- Increased need for/cost of legal liability.

Housing. With respect to owner-occupied housing, impacts across the three alternatives are assumed to be identical if lead-based paint hazards are found and

lead hazard control measures are necessary. What differentiates the alternatives are the number of affected owner-occupied housing units and the ongoing annual maintenance costs. For both of these criteria, Alternative 1 would result in the greatest impact on homeowners, due to the higher number of affected units associated with this alternative. Refer to Section 5 for a more detailed analysis.

Although the analysis states that mass property abandonment is not expected, Alternative 1 would place the greatest burden on property owners, thereby creating the greatest likelihood of abandonment. Property abandonment would first occur in neighborhoods where the ratio of lead-hazard control costs to housing market values is the highest.

For renter-occupied properties, it should be noted that the return to a positive cash flow for property owners within 10 years indicates that current property owners could sustain their investment, or if they choose to sell their property, would be able to attract other investors. Alternative 1 would have the greatest economic impact on property owners, and Alternative 3 would have the least impact on property owners. Thus, there would be limited abandonment as a result of implementing one of the alternatives, and the degree of abandonment would be based on which alternative is selected.

Human Health. A quantification and ranking of human health impacts resulting from adoption of one of the proposed lead poisoning prevention ordinances is difficult to develop for this assessment. Several factors, some of which are ill-defined, play a contributing role in determining the relative strengths of one ordinance over another with respect to human health issues. Included among these factors is the precise number of homes or persons potentially impacted by lead poisoning. In general, the following outlines some of the qualitative impacts under the proposed alternatives:

- Alternative 1, through its “targeting” provision, initially targets the highest risk homes in the highest risk areas requiring lead hazard control work. Alternative 1 also allows for the fewest exemptions and addresses the broadest universe of potential structures. Therefore, because Alternative 1 has the widest and most focused reach, it can be considered the most health-protective of the ordinances evaluated.
- Alternative 2 outlines a universe of eligible properties for inspection following the renewal of the Certificate of Occupancy. However, this alternative does not specifically address housing units where children under the age of 6 reside.
- Similar to Alternative 2, Alternative 3 outlines a universe of eligible properties for inspection following the renewal of the Certificate of Occupancy. Also similar to Alternative 1, Alternative 3 provides a greater degree of overall reduction in potential exposure for the most at risk population in Rochester, containing language specifying that if deteriorated lead-based or presumed

lead-based paint is found in a dwelling occupied by a child under 6 years of age, or is for rent or for sale, the inspector may issue a Notice and Order requiring the correction of such condition.

- Under the No Action Alternative, no progress would be made toward the overall human health goal of reducing the incidence of childhood lead-poisoning.

A more thorough discussion of human health issues associated with the ordinance alternatives is presented in Section 5 of this GEIS.

1

Introduction

1.1 Background

The city of Rochester, as with many older cities in the U.S., has a significant stock of older residential homes. According to U.S. Census 2000 statistics (United States Census Bureau 2005), approximately 95% of the city's housing units were constructed prior to 1980, 89% of which were occupied in 2000. These include both owner-occupied homes and rental units. Due to potential lead paint hazards in Rochester's older housing stock, occupied homes constructed prior to 1978 pose a potential threat to city residents, especially younger children (6 years or younger), from lead poisoning. From a public policy perspective, lead-based paint is often presumed to be present in homes constructed prior to 1978, since the U.S. Consumer Product Safety Commission banned the use of lead-based paint in that year.

Childhood lead poisoning is a serious public health threat in the City of Rochester and has been identified by the Director of the Monroe County Department of Public Health (MCDPH) as one of the highest priority local public health issues. Childhood lead exposure can occur because of contact with dirt, dust, and fumes containing lead. Young children that ingest lead contaminated dust, dirt or paint chips or who come into contact with lead-painted surfaces within their reach (e.g., on doors, windowsills, porch decks) are potentially exposed to a significantly increased risk of developing long-lasting cognitive, physiological, and behavioral problems. All of these are important and contributing factors to the lead poisoning issue in the city of Rochester.

According to the Monroe County Department of Public Health, 13,259 children were screened for blood lead levels in 2001 (Monroe County Department of Public Health 2005). Of those screened, 1,179, or 8.9%, had blood lead levels at or above 10 micrograms per deciliter ($\mu\text{g}/\text{dL}$), a concentration that is above the Centers for Disease Control and Prevention's (CDC) acceptable level for young children (CDC 2005). This percentage is a substantially higher rate than the statewide average, which in 2001 was 2.7% (NYS Department of Health 2004). Many of the children identified as having elevated lead blood levels reside in sections of Monroe County where older housing is prevalent and poverty rates are the highest (Lanphear et al. 1998).

Primary prevention is a key strategy in eliminating childhood lead poisoning. Primary prevention involves preventing exposure to lead hazards before blood lead levels reach levels of concern. The current public health policy in New York State and Monroe County does not fully embrace primary prevention and instead relies upon screening children for blood lead levels that equal or exceed 10µg/dL (Lanphear et al. 2005). Following the screening process, children that are determined to have an elevated blood lead level, are treated, tracked, and the family is educated on potential causes of the elevated levels and lead hazard reduction work is identified that is potentially necessary at the home to control the lead hazard. This strategy is inadequate because it fails to identify lead hazards before children are exposed. Lanphear et al. (2005) discussed the need for and effectiveness of screening lead hazards in homes before children are exposed to those hazards. This form of primary prevention has been acknowledged by the City of Rochester and has been integrated into the proposed lead-based paint ordinances. The Monroe County Childhood Lead Poisoning Prevention Program (CLPP), the Coalition to Prevent Lead Poisoning (CPLP), and Rochester's City "LEAD" Program (see Section 2.3) are currently working to put in place the tools to eliminate lead hazards before children are exposed. Coupled with these efforts, a City lead poisoning prevention ordinance will help to further the primary prevention initiatives to eventually eliminate lead poisoning.

The City of Rochester, Monroe County, and many other agencies and advocacy groups in the area recognize the significance of the lead-based paint issue as it relates to the City's residential building stock. The City and County have developed important programs and initiatives to address this issue, focusing their efforts on reducing lead hazards in homes to protect residents from exposure. In addition, a number of active community groups are assisting in the overall effort. These and other lead-related initiatives are discussed in detail in Section 2.3.

To further the City's efforts to prevent human exposure to lead hazards and allow for a more comprehensive approach to addressing lead hazard issues in the city, two Lead Poisoning Prevention ordinances have been proposed for adoption as amendments to the Municipal Code of the City of Rochester. This Generic Environmental Impact Statement (GEIS) objectively evaluates the potential impacts of both proposed Lead Poisoning Prevention ordinances, as well as other alternatives.

1.2 Description of the Proposed Action

The proposed action evaluated in this GEIS is the adoption of a Lead Poisoning Prevention ordinance as part of the Municipal Code of the City of Rochester. The ordinances under consideration each require that the presence of deteriorated paint in or on pre-1978 residential structures be evaluated and appropriately addressed in order to prevent human exposure to lead hazards. The Mayor of the City of Rochester, as lead agency for this action which is reviewable under the State Environmental Quality Review (SEQR) Act, has determined that a GEIS be prepared

as an appropriate means to objectively compare and evaluate potential impacts of the proposed ordinances.

The intent of the alternative ordinances evaluated in this GEIS are to prevent exposure of residents to lead-based paint and other lead hazards; however, the alternatives vary in detail and, in some cases, with respect to their essential components. Each alternative ordinance focuses on critical elements that form a basis for comparing the ordinances. Among other things, the major components of the ordinances include the following:

- Property types affected;
- How inspections will be triggered and how lead hazards will be identified;
- Who will perform the inspection, and who will be responsible for the cost of the inspection;
- The scope of the inspection;
- Clearance examination standards for determining the success or failure of interim controls and/or remediation work in eliminating identified lead-paint hazards in homes;
- Who will provide notice to property occupants regarding interior and/or exterior lead-based paint hazard reduction work;
- How occupants will be protected during work site preparation and hazard-reduction work;
- Safe work practices for lead-based paint disturbance;
- Tenant protections, including how occupants will be protected against retaliatory eviction, and what additional protections, rights, and causes of action exist (if any); and
- Disclosure and other requirements upon property transfer.

Section 3 provides a detailed comparison of the critical elements of the alternative ordinances evaluated.

1.3 Purpose and Need

Lead poisoning prevention ordinances are being proposed to reduce exposure of Rochester residents (especially those age 6 years and under) to lead by requiring that the presence of deteriorated paint in and on pre-1978 residential structures be evaluated and appropriately addressed. In doing so, human exposure to lead-based paint hazards will be reduced and controlled. The need for a lead ordinance

is based on the significant impact that exposure to lead can have on the cognitive, physiological, and behavioral abilities of residents, especially young children.

The following discussion expands on the need for a lead poisoning prevention ordinance in the City of Rochester. It presents the basis for developing a new code, focusing primarily on the affects of lead poisoning on human health, academic achievement, economic achievement, and the criminal justice system. This section relies on existing research from various sources, such as the United States Environmental Protection Agency (EPA), the Centers for Disease Control and Prevention (CDC), research presented in the New England Journal of Medicine, various studies published by Drs. Bruch Lanphear and Herbert Needleman, and research conducted by University of Rochester professor Katrina Smith Korfmacher. The discussion presents only a summary of the extensive research that has been conducted on this issue. Each of the sources listed below examines various aspects of lead poisoning in depth and documents the need for a lead poisoning prevention ordinance.

The EPA and the CDC have published information about the causes and effects of childhood lead poisoning. Research has been conducted concerning the acute and long-term effects of lead poisoning on children. The New England Journal of Medicine has published several studies concerning lead poisoning affects on a child's IQ score (Canfield et al. 2003; Needleman et al. 1990). In addition, Professor Katrina Smith Korfmacher of the University of Rochester has studied the issue of lead poisoning and its impact on economic achievement. This study referenced several supporting studies previously conducted regarding income loss, health care costs, educational impacts, costs to the criminal justice system, and other societal costs related to the effects of lead poisoning in children. It should be noted that this research was completed in association with the community-based organization, the Coalition to Prevent Lead Poisoning (CPLP).

1.3.1 Exposure to Lead

Children may be exposed to lead in a variety of ways. A recent study found that the major source of elevated blood lead levels in children is lead-contaminated dust found in the home (Lanphear et al. 2002). Lead-based paint that was used in homes prior to 1978 is considered the major source of lead poisoning. Lead hazards are found where the paint is peeling, chipping, cracked or otherwise deteriorated. Windows and windowsills, doors and doorframes, stairs, railings and banisters, and porches are major sources of lead-contaminated dust. Such dust is typically generated by friction or impact with such surfaces. Lead dust and chips can also form when dry paint is scraped and sanded. These and other construction activities can cause the lead-contaminated dust to become airborne, increasing potential exposure to lead.

Lead in the soil around the home is also a possible source of exposure. Soil lead can derive from the exterior use of lead-based paint. Other sources of household lead include lead pipes or lead solder used in plumbing, old painted toys, and

leaded crystal or pottery. Since children can be exposed to lead from a number of sources, it is very important that all sources of exposure be considered and controlled. A recent study found that identifying lead hazards prior to purchasing, occupying, or renovating a home can reduce children's exposure to lead (Lanphear et al. 2005). And assessment of the HUD Lead Hazard Control Program has indicated that identifying and removing lead hazards leads to reduced exposure of children to lead for at least three years after the lead hazard intervention (Galke et al. 2001).

1.3.2 Symptoms/Treatment

Lead's principal effect involves neurodevelopment in children. Studies by Canfield et al. (2003) suggest that blood lead concentrations in children are to a degree inversely associated with IQ. Canfield et al. (2003) reported that a blood lead concentration of 10µg/dL has been associated with an IQ deficit of 7 points compared to a control population, and that a blood lead concentration of 20µg/dL is associated with an additional IQ deficit of 4 points, although it is not certain how these reported lead-induced IQ deficits affect intelligence or behavior later in life.

Other symptoms of lead poisoning include behavioral and learning problems, slowed growth, hearing problems, hyperactivity, and headaches (EPA 2005a). Lead can also be harmful in adults. Elevated blood levels in adults can cause reproductive problems, difficulty in pregnancy, miscarriages, high blood pressure, nerve disorders, memory and concentration problems, and muscle and joint pain (EPA 2005a). High lead levels during pregnancy can ultimately affect the health of the fetus and cause low birth weights, stillborns, pre-term delivery, and developmental delays in the infant (ATSDR 1999b).

The best means of diagnosing lead poisoning is to determine blood lead concentrations. According to the CDC, evidence of lead exposure is indicated by blood lead concentrations greater than or equal to 10 µg/dL (Bellinger 2004). As described above, some studies suggest that a blood lead concentration of 10µg/dL is associated with decreased IQ (Canfield et al. 2003). The CDC's Advisory Committee on Childhood Lead Poisoning Prevention (ACCLPP) recommends that children enrolled in Medicaid should be tested at 12 months and then again at 24 months to screen for lead poisoning. The ACCLPP also recommends that children in at-risk neighborhoods begin testing at 6 months of age (CDC 2000).

Once lead poisoning has been identified, two options to address the problem are typically considered. The most common option is to remove the child from the lead source so that further exposure is minimized, after which blood lead concentrations will decrease. Chelation is another option. Chelation therapy is the administration of a drug that draws toxic metals from the bloodstream so that the body can pass them more effectively. This is usually employed only for those with extremely high blood lead concentrations, typically 45µg/dL or higher. (Smith Korfmacher 2003).

1.3.3 Lead Poisoning Effects on Learning

Since lead exposure in some studies has been associated with deficits in IQ scores, some researchers have suggested lead exposure will impact a child's ability to perform in school. Needleman et al. (1979 and 1990) reported that lead poisoned children are more likely to develop various learning disabilities, Attention Deficit Hyperactivity Disorder, decreased vocabulary and grammar abilities, poor hand-eye coordination, the loss of recently acquired skills, and, in some cases, mental retardation.

Needleman et al. (1990) reported that learning disabilities associated with lead exposure have resulted in children who experience increased absenteeism, a lower class ranking in high school, and are seven times more likely to drop out of high school. Smith Korfmacher (2003) suggested that the neurological effects of lead can ultimately cause children to require special education classes; it was estimated that 20% of children with blood lead concentrations of 25 µg/dL or greater will need to be placed into special education classes.

1.3.4 Lead Poisoning Effects on Delinquent Behavior

Research has suggested that the neurobehavioral effects of lead poisoning can influence how an individual reacts to everyday situations, including tendencies toward aggression and delinquent behavior (Needleman et al. 1996, 2004). A recent study has estimated that delinquency due to early exposure to lead ranged from 11% to 38% for arrested juvenile delinquents in the Pittsburgh, Pennsylvania area (Needleman 2004).

1.3.5 Lead Poisoning and the Economy

There are indications in the scientific literature that lead poisoning may impact the economy in many ways—from reduced earning potential, costs for health care, costs for special education, and costs to the criminal justice system. A recent study (Landrigan et al. 2002) stated that the annual cost of lead poisoning in American children is over \$43 billion, which the study claims is 80% of the cost of all environmentally associated diseases. Given this research, reducing lead poisoning could potentially benefit the economy by reducing the cost of public services.

Other research has shown that a lower IQ results in reduced earned income over a person's lifetime (Smith Korfmacher 2003). Smith Korfmacher (2003) estimated that New York State is losing approximately \$78 million in tax revenue each year due to lost income from children having blood lead concentrations over 10µg/dL. The study estimated that the lifetime reduction in income earnings for children with lead poisoning is 1.61%, resulting in New York State losing approximately \$3 billion of income for each birth cohort of children with blood lead concentrations over 10µg/dL. Smith Korfmacher's study also suggested that the economic impact could potentially be higher since the effects of blood lead concentrations less than 10µg/dL on the lifetime earnings are not well known (Smith Korfmacher 2003).

The costs of health care needed to treat children with blood lead concentrations of 10µg/dL or greater could have immediate and long-term economic effects. The initial treatment of all children 0 to 6 years of age in New York State costs approximately \$3.1 million annually (in 1996 dollars) (Smith Korfmacher 2003). These costs include repeated testing, environmental investigations, hazard control in patients' homes, and, rarely, chelation therapy. These costs, however, do not include the health care costs for behavioral and learning problems that may be associated with lead poisoning. The long-term costs of lead poisoning are not as well understood, but would include any costs associated with the long-term effects of lead poisoning, such as osteoporosis and adult hypertension (Smith Korfmacher 2003). Smith Korfmacher (2003) believes that the long-term costs of lead poisoning may dwarf the initial costs.

If one assumes that children with lead poisoning have a variety of learning disabilities and thus need to enter into special education classes, it is expected that schools throughout the state would need to spend millions of dollars to accommodate them. According to Smith Korfmacher (2003), eliminating the number of children with lead poisoning could save schools in New York State approximately \$9.7 million each year. This amount is the cost of 20% of children with blood lead concentrations greater than 25µg/dL receiving 3 years of special education classes. This amount does not take into account the costs for any other educational needs of these children or the additional educational needs of children with blood lead concentrations below 25µg/dL. This research suggests that school systems would substantially benefit from eliminating childhood lead poisoning (Smith Korfmacher 2003).

If there is a causal relationship between lead poisoning and delinquent behavior and violent crimes, as suggested by Needleman et al. (1996), then eliminating lead poisoning could have significant social benefits, including cost savings associated with reduced incarceration and a reduction in the number of crime victims. Recent research estimated that it costs New York State \$12 to \$34 million per year to place juvenile delinquents in residential treatment facilities (Smith Korfmacher 2003). Smith Korfmacher also suggests that this could be a gross underestimate and that the long-term costs of incarceration for these individuals could be much greater.

In summary, the purpose and need for enacting an effective lead poisoning prevention ordinance has been well documented and addressed on a variety of levels.

1.4 SEQR Process

This document has been prepared in accordance with the New York State Environmental Quality Review (SEQR) Act, established by Article 8 of the New York State Environmental Conservation Law and implemented by Title 6 of the New York State Codes, Rules and Regulations (NYCRR), 6 NYCRR, Part 617. This document has also been prepared in accordance with Chapter 48 of the Rochester

1. Introduction

Municipal Code, the purpose of which is to incorporate consideration of environmental factors into the decision-making processes of City government at the earliest possible time. The SEQR process considers environmental factors early in the planning stages of actions that are directly taken, funded, or approved by local, regional, and state agencies. This GEIS is being prepared to evaluate the environmental consequences of adopting a lead poisoning prevention ordinance into the Municipal Code of the City of Rochester. SEQR provides for preparation of GEISs for proposed actions that are programmatic and/or not site specific.

In January 2005 the City of Rochester filed a Positive Declaration, a full Environmental Assessment Form (EAF), and a Notice of Intent to prepare a Draft GEIS for proposed City Code Amendments to enact a Lead Poisoning Prevention Ordinance. The Mayor of the City of Rochester, as designated lead agency for this SEQR review, determined this action requires that an Environmental Impact Statement be prepared. A copy of the Positive Declaration, EAF, and supporting SEQR information are included in Appendix A. A public scoping meeting was held on February 28, 2005. The City received written scoping comments through the close of the public scoping comment period on March 24, 2005.

Following issuance of the Draft GEIS on September 9, 2005, the City held a 30-day public comment period, which included a public hearing held on September 27, 2005 where the Rochester Environmental Commission (REC) accepted public comments. Notice of the availability of the Draft GEIS was published in local newspapers and the Environmental News Bulletin. The public comment period and public hearing provided interested parties with the opportunity to provide comments on the draft document. All oral and written comments received on the Draft GEIS were reviewed by the REC and provided to the lead agency for review and response. All substantive and relevant comments were responded to in the development of this Final GEIS (see Appendix E – Comment Response Table).

2

Existing Statutes, Regulations, Practices, Programs, and Policy

This Section outlines the current laws, regulations, practices, and programs in place that define the need for the proposed action.

2.1 Review of Existing Federal, State, and Local Laws and Regulations

The following provides a summary of the key federal, state, and local laws and regulations referenced in the proposed legislation and/or that are directly applicable to lead poisoning issues.

The passage of the Lead-Based Paint Poisoning Prevention Act (LBPPPA) in 1971 marked Congress's first attempt to regulate lead-based paint. By this act, Congress prohibited the use of lead-based paint and created programs to further research its effects on health. Since then, Congress has legislated repeatedly to control lead-based paint hazards and reduce lead poisoning. The primary federal statute regulating lead-based paint is the Toxic Substances Control Act (TSCA). Enacted in 1976, TSCA authorizes the EPA to control substances that pose an unreasonable risk to public health or the environment. In 1992, TSCA was amended by passage of the Residential Lead-Based Paint Hazard Reduction Act (Title X) to include Section IV, entitled "Lead Exposure Reduction." Section IV provides a comprehensive regulatory scheme for identifying, measuring, and abating lead and requires dissemination of information about lead and other community awareness actions.

In addition to amending TSCA, Title X requires federal agencies to work together to protect families from lead-based paint hazards in their homes. Specifically, Title X mandates disclosure of known lead-based paint upon sale and transfer of certain residential housing. Title X also addresses lead-based paint requirements for HUD-owned and other federally funded housing. Title X provides further lead regulations for HUD-owned and federally funded housing.

Mindful of Congress's efforts to control and reduce lead-based paint hazards, New York State has implemented its own laws and regulations to further protect its residents from the harmful effects of lead-based paint. The New York State Legislature has enacted laws, and the New York State Department of Health has

2. Regulations, Practices, Programs, and Policy

promulgated appropriate regulations mandating lead screening, reporting, education, and community awareness. In addition, the laws and regulations require local health units to work together to support state lead-based paint initiatives.

The New York State Department of State has incorporated deteriorated paint provisions in Section 304.3 of the NYS Property Maintenance Code. These provisions address the correction of peeling, chipping, flaking, and abraded paint conditions present in and on buildings within the state.

Lastly, New York State's Real Property Law and Real Property Actions and Proceedings Law provide residential tenants with specific protections and rights in the event their housing contains hazardous conditions in violation of State law or State code.

2.1.1 Federal

Statutes

- **15 USC §2601 et seq. (Toxic Substances Control Act)**

The Toxic Substances Control Act (TSCA) requires reporting and testing of chemicals, including lead, posing an environmental and/or human health hazard. Specific applicable TSCA provisions include §2685, addressing lead abatement and measurement and establishes programs for lead detection, lead sampling, and community awareness. In addition, §2686 mandates the publication and distribution of a lead hazard information pamphlet.

- **42 USC §3545 (HUD Accountability)**

This law addresses public notice, disclosure, and documentation requirements, as well as administrative practices and procedures related to HUD properties. It also provides for judicial review and penalty imposition for violations of HUD lead-based paint regulations.

- **42 USC §§4821 – 4822, 4831, 4841-4846 (Lead-Based Paint Poisoning Prevention)**

These laws address several lead-based paint issues, including the development of a demonstration and research program (§4821), lead-based paint requirements for housing receiving federal assistance (§4822), the prohibition of future lead-based paint use (§4831), and other administrative matters (§§4841-4843). §4846 operates to supersede and void any state and local laws that differ or conflict with federal lead-based paint laws.

- **42 USC §4851 et seq. (Residential Lead-Based Paint Hazard Reduction Act/Title X)**

These laws operate to protect families from exposure to lead poisoning due to lead-based paint hazards present in residential properties. Particularly relevant provisions include §4852 (federal grants for certain properties), §4852c

2. Regulations, Practices, Programs, and Policy

(guidelines for lead evaluation and reduction activities), §4865d (requiring the disclosure of known lead-based paint before the sale of most housing constructed prior to 1978) and §4853 (worker protection).

Regulations

- **16 CFR Part 1303 (Consumer Product Safety Act Regulations)**
This part of the Consumer Product Safety Act Regulations addresses the ban of lead-containing paint and certain consumer products bearing lead-containing paint.
- **24 CFR Part 35 (Lead-Based Paint Poisoning Prevention in Certain Residential Structures) (US Department of HUD)**
This part includes regulations that serve to implement the Residential Lead-Based Paint Hazard Reduction Act and other lead-based paint laws contained in 42 USC §4851 Subpart A of this part sets forth disclosure requirements for sellers, lessors, and agent responsibilities. Subpart L regulates lead-paint issues with respect to public housing programs. Subpart R addresses the methods and standards for lead-paint evaluation and hazard-reduction activities. The remaining subparts regulate other lead issues, including federal assistance, HUD-owned property, and general lead requirements.
- **29 CFR §1926.62 (Safety and Health Regulations – Occupational Health and Environmental Controls) (US Department of Labor)**
This regulation applies to construction work that creates a lead exposure risk. It requires an employee exposure assessment, lead exposure monitoring, and implementation of a compliance program and engineering and work practice controls to reduce and control lead exposure. The regulation mandates employers to provide certain safety equipment and clothing to protect against exposure and requires employers to conduct medical examinations as needed.
- **40 CFR §261.3 (Identification and Listing of Hazardous Waste) (EPA)**
This regulation identifies and lists lead as a hazardous waste and provides exclusion levels.
- **40 CFR Part 745 (TSCA - Lead-Based Paint Poisoning Prevention in Certain Residential Structures) (EPA)**
These regulations serve to implement TSCA as it relates to lead-based paint. Particularly relevant is Subpart D, which defines lead-based paint hazards and clearance standards, Subpart E, which regulates notice and record-keeping requirements; Subpart F, which regulates disclosure requirements; and Subpart L, which regulates lead-based paint activities and work practice standards.

2. Regulations, Practices, Programs, and Policy

2.1.2 New York State

■ Public Health Law

The Public Health Law contains provisions that govern the control of lead poisoning in New York and establishes an advisory council to develop statewide plans and systems to combat lead poisoning. Specifically, §§1370c-1370e mandate screening and reporting of lead levels; §1372 prohibits the use of lead paint; §1373 authorizes the Commissioner of Health to serve a notice and demand to abate lead hazard conditions to property owners; and §1376-a regulates the sale of consumer items containing lead.

■ Real Property Law §§223-b, 235-b

§223-b of New York's Real Property Law prevents retaliation by a landlord against a tenant for a tenant's good faith complaint against the landlord for violations of New York's health or safety laws, regulations, or codes. §235-b of New York's Real Property Law requires that every landlord, as part of a written or oral rental or lease agreement, warrant that the premises rented or leased are fit for human habitation and safe from dangerous and/or hazardous conditions (the warranty of habitability).

■ Social Services Law §143-b

This Social Services Law grants a public welfare official the power to withhold payment of rent to a landlord (on behalf of a party receiving public assistance toward the rental of housing) if such housing violates code and contains conditions that are dangerous, hazardous, or detrimental to life or health.

■ Real Property Actions and Proceedings Law §755

§755 of New York's Real Property Actions and Proceedings Law authorizes a court to stay or dismiss eviction or rent recovery proceedings against a tenant if the dwelling is, or is likely to become, dangerous to life, health or safety, or if the conditions operate to "constructively evict" the tenant from a portion of the dwelling.

■ 10 NYCRR Part 67 (Department of Health Lead Poisoning Prevention and Control Regulations)

Title 10, Part 67 of NYCRR addresses lead poisoning prevention and control. Subpart 67-1 regulates mandatory lead screening, laboratory and screening processes, and the role of local health units. Subpart 67-2 regulates lead testing, sampling, reporting, and abatement matters. Subpart 67-3 regulates the reporting of elevated lead levels.

■ Property Maintenance Code

§304.3 of the Property Maintenance Code is issued by the New York State Department of State and contains provisions addressing the correction of peeling, chipping, flaking, and abraded paint. It also prescribes safe and effective techniques for the correction of deteriorated paint conditions.

2.1.3 Local**■ Monroe County General Local Law, Part IV (Criteria for conduct of elevated blood lead level investigation)**

§285-1 of the Monroe County General Local Law gives the Monroe County Department of Public Health's Lead Poisoning Prevention Program authorization to conduct elevated blood lead level investigations pursuant to the New York State Public Health Law statutes and regulations for any dwelling inhabited by a child up to 72 months of age whenever that child has two confirmed blood lead screening tests between 15 and 19 µg/dL within a one-year period.

■ City Code of Rochester

- The City Code of Rochester §90-14(A) states that paint containing more than 0.5% lead by weight shall not be applied to any exterior or interior surface. Where such paint is found, it shall be promptly refinished or resurfaced.
- The City Code of Rochester §120-158.3 states that replacement windows in a designated building of historic value shall utilize true divided lights or simulated divided lights when matching the original mullion and/or muntin configuration. This would not include interior-only grids or grids between the panes of glass, except where windows are being replaced in order to abate lead paint hazards.

2.2 Review of Existing Lead Hazard Control Practices

This section provides a general discussion of lead-safe work practices, lead hazard control methods, including abatement and interim controls, and a discussion of issues associated with maintenance/repetition of interim controls. 24 CFR Part 35 outlines HUD's regulations on lead-based paint hazards in federally owned housing and housing receiving federal assistance (i.e., Section 8 housing).

2.2.1 Lead-Safe Work Practices (LSWP)

Lead-safe work practices are a critical component of, and must be used during, lead hazard reduction activities. This includes rehabilitation and maintenance work that involve surfaces that are presumed or identified as containing lead-based paint. According to HUD, there are four primary components of lead-safe work practices (24 CFR 35.1350):

1. **Occupant Protection.** Appropriate actions must be taken to protect occupants from lead-based paint hazards associated with lead hazard reduction, paint stabilization, maintenance, or rehabilitation activities;
2. **Work Site Preparation and Containment.** The work site must be prepared to prevent the release of leaded dust and debris;

2. Regulations, Practices, Programs, and Policy

3. **Prohibited Methods.** Some methods may not be used at any time to remove paint that is or may be lead-based. The following is a list of prohibited methods listed in accordance with 24 CFR 35.140.

- Open flame burning or torching.
- Machine sanding or grinding without a high efficiency particulate air (HEPA) local exhaust control.
- Heat guns operating above 1,100 degrees Fahrenheit or those that operate at a temperature hot enough to char the paint.
- Dry sanding or dry scraping.

Note: Exceptions to this prohibition include:

- Dry scraping in conjunction with heat guns;
- Dry scraping within 1.0 foot (0.2 meter [m]) of electrical outlets;
- Treating deteriorated paint spots that total no more than 2 square feet (0.2 m²) on any one interior room or space; and
- Treating deteriorated paint spots that total no more than 20 square feet (2.0 m²) on exterior surfaces.

- Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the Consumer Product Safety Commission at 16 CFR 1500.3 and/or a hazardous chemical in accordance with the Occupational Safety and Health Administration (OSHA) at 29 CFR 1010.1200 or 1926.59, as applicable.

Note: Methylene chloride paint stripper may cause cancer and should be avoided.

4. **Work Site Cleanup.** Work site cleanup removes dust and debris from the work area. Good cleanup is critical to passing clearance and leaving the unit safe for habitation. Work site cleanup must be done using methods, products, and devices that are successful in cleaning lead-contaminated dust, such as vacuum cleaners with HEPA filters and household or lead-specific detergents.

2.2.2 Lead Hazard Control

Lead hazard reduction methods are specific types of treatments implemented to control lead-based paint hazards. The type of housing activity being undertaken determines the method of Lead Hazard Reduction required. There are two Lead Hazard Reduction methods—abatement and interim controls. The following is a summary of the Lead Hazard Reduction methods that are in compliance with 24 CFR 35.1330 and 35.1325.

2. Regulations, Practices, Programs, and Policy

2.2.2.1 Abatement

Abatement is a Lead Hazard Reduction method that is designed to permanently eliminate lead-based paint or lead-based paint hazards. (“Permanent” is defined as having a 20-year expected life.) Abatement must be performed by certified abatement workers (i.e., who have successfully completed an EPA-accredited abatement worker course) supervised by a certified abatement supervisor (i.e., certified by EPA). Abatement activities include:

- Removing lead-based paint and its dust,
- Permanently encapsulating or enclosing the lead-based paint,
- Replacing components containing lead-based paint, and
- Removing or permanently covering lead-contaminated soil.

2.2.2.2 Interim Controls

Interim controls are Lead Hazard Reduction activities that temporarily reduce exposure to lead-based paint hazards through repairs, painting, maintenance, special cleaning, occupant-protection measures, clearance, and education programs. A person performing paint stabilization, interim controls, or standard treatments must be trained in accordance with OSHA Hazard Communication requirements (29 CFR 1926.59) and must be supervised by a certified lead-based paint abatement supervisor, or must have successfully completed a HUD-approved training course (see Section 3.3.3). Interim control methods require safe work practices and include:

- **Paint stabilization.** Repair any physical defect in the substrate of a painted surface that is causing paint deterioration, remove loose paint and other material from the surface to be treated, and apply a new protective coating or paint
- **Treatment for friction and impact surfaces.** Correct the conditions that create friction or impact with surfaces with lead-based paint.
- **Treatment for chewable surfaces.** If a child under age six has chewed surfaces known or presumed to contain lead-based paint, these surfaces must be enclosed or coated so that they are impenetrable.
- **Lead-contaminated dust control.** All rough, pitted, or porous horizontal surfaces must be covered with a smooth, cleanable covering. Carpets must be vacuumed on both sides using HEPA vacuums or equivalent.
- **Lead-contaminated soil control.** If bare soil is contaminated with lead, impervious surface coverings such as gravel, bark, and sod, as well as land use controls such as fencing, landscaping, and warning signs, may be used.

2. Regulations, Practices, Programs, and Policy

2.2.2.3 Standard Treatments

Standard treatments may be conducted in lieu of a risk assessment and interim controls. That is to say, lead-based paint is presumed to be present and all painted surfaces are treated as such. Standard treatments are designed to reduce all lead-based paint hazards in a unit and must be performed on all applicable surfaces, including bare soil, to control lead-based paint hazards that may be present. All standard treatment methods must follow lead-safe work practices. Standard treatments consist of a full set of treatments that include:

- Paint stabilization,
- Creating smooth and cleanable horizontal surfaces,
- Correcting dust-generating conditions, and
- Addressing bare residential soil.

2.2.2.4 Interim Control Maintenance

Following completion of interim controls, maintenance activities must be undertaken to avoid creating new lead hazards. Maintenance includes:

- Frequent cleaning of surfaces (e.g., windowsills, floors, carpets), including dusting and wiping with a wet sponge;
- Checking walls for cracks, leaks, chipping, and peeling;
- Repairing cracking, peeling, or chipping paint; and
- Repairing windows so that they slide/open easily.

2.2.3 LSWP Training Resources

There are sources in Rochester that offer instruction and training in lead-safe work practices. These typically consist of a one-day HUD-approved training course. The Monroe County Department of Public Health offers an 8-hour Lead-Safe Work Practices training class to teach lead-safe work practices to anyone who regularly disturbs lead-based paint, at no cost to the attendees. The course provides information on containment, reduction/control, and cleanup of lead hazards.

The City of Rochester's "City LEAD" program provides funding for training contractors and property owners in lead-safe work practices. The City of Rochester has entered into an agreement with the Housing Council to deliver HUD-approved workshop programs to property owners and the general public. This training provides property owners with information on lead-based paint hazard issues and the knowledge and know-how to carry out lead control work in a safe manner.

2. Regulations, Practices, Programs, and Policy

The City has also entered into an agreement with a private training firm to provide EPA-certified abatement training to local contractors. The community will benefit from the training by helping to increase the number of certified abatement firms that will serve local property owners who require lead-abatement services.

2.3 Existing Lead Initiatives

2.3.1 City of Rochester Lead Hazard Control Initiatives

The City of Rochester has several lead hazard control initiatives that are currently working to address lead poisoning in children. The City provides financial assistance to homeowners and landlords to create lead-safe housing. The City works together with Monroe County to provide lead-safe housing units under the HUD grant program. In conjunction with, and supported by, the City of Rochester, the CPLP is implementing a public communications campaign designed to develop a variety of educational materials and neighborhood-based programs for increasing lead hazard awareness.

The City of Rochester has received three funding awards from HUD's Office of Healthy Homes and Lead Hazard Control, which have provided the City with funding to expand its Lead Hazard Control efforts. These awards, along with the \$8.8 million the City has committed to these efforts, provide \$16.8 million to combat lead poisoning (City of Rochester 2005c).

2.3.1.1 "City LEAD"

City LEAD is funded through HUD grants, the City of Rochester, and private funds, totaling approximately \$16 million (City of Rochester 2005c). Financial assistance is provided to homeowners and landlords in Rochester through "City LEAD." This initiative is geared toward providing funding to "high-risk" properties located in "at-risk" neighborhoods within the city limits. "City LEAD" provides forgivable loans of up to \$24,000 per unit in order to create 600 units of lead-safe housing by 2008. Eligible owners receive a risk assessment to identify any lead hazards present in the unit and are required to attend an 8-hour lead-safe maintenance and work practices training program. Lead hazard control work is performed by trained contractors.

This program includes funding for lead hazard evaluations, child blood lead testing, education and outreach, and communication campaigns. The City also contracts with the Housing Council to assist the City with the intake process for landlord applications and provides local landlords with lead-safe workshops and other information. Another aspect of the "City LEAD" initiative is geared towards contractor training. The City offers a free training course to enable contractors to gain EPA certification for lead abatement work. The goal is to produce a minimum of 100 EPA-certified contractor workers by December 2005.

2.3.1.2 Other City Initiatives

The City has funded a 2-year communication campaign designed to reach populations most affected by lead poisoning. This campaign is being undertaken by the

2. Regulations, Practices, Programs, and Policy

Coalition to Prevent Lead Poisoning. The work of this campaign has included media productions, community presentations, development of education materials, and neighborhood-based programs for increasing lead hazard awareness.

“Get the Lead Out”

The 2-year “Get the Lead Out” (GLO) initiative is part of the City’s outreach and education component of its lead hazard control initiative. The University of Rochester and Action for a Better Community have undertaken this initiative, which focuses on primary health care, housing, and education in at-risk neighborhoods within the city. GLO originally began to work within the Jay/Orchard Street neighborhood and has expanded to provide assistance to over 100 families throughout the city.

“Dust Wipes for All”

As part of the GLO initiative, the City provides funding to Action for a Better Community to run “Dust Wipes for All.” The focus of this initiative is to screen for the presence of lead hazards by providing lead dust wipes to residents located in the target neighborhoods and to provide services to families enrolled in GLO.

2.3.2 Monroe County Lead-Based Paint Initiatives

The MCDPH has instituted lead hazard initiatives and has operated a Childhood Lead Poisoning Prevention Program (CLPP) for more than 30 years. CLPP program provides various services and programs to the local community. Through this program, the county conducts environmental assessments, provides educational outreach, and responds to complaints of improper lead hazard activities.

2.3.2.1 Childhood Lead Poisoning Prevention Program

The MCDPH has implemented a comprehensive Childhood Lead Poisoning Prevention Program that provides various services and programs to the local community. The MCDPH provides the following services for the community:

- Maintains a LEADTRACK database, which provides information on over 90,000 children in Monroe County who have been tested for elevated blood lead levels. The database also includes homes that have been determined to be lead safe, which is shared with the Monroe County Department of Human and Health Services (MCHHS) and various community-based organizations that provide housing assistance.
- Provides outreach to families of children with elevated blood lead levels greater than 10µg/dL.
- Conducts environmental assessments of all residences of children with blood lead levels greater than 20 µg/dL or two confirmed tests between 15 and 20 µg/dL within a one-year period. The assessments include a full educational intervention, identification of lead hazards, issuance of a Notice of Demand to inform the homeowner of the time frame given to eliminate all identified haz-

2. Regulations, Practices, Programs, and Policy

ards, and now require clearance testing to verify compliance. Through this effort, lead control work has been conducted at 1,035 housing units.

- Provides educational outreach on lead poisoning to the general public, health professionals, property owners, contractors, and other community organizations.
- Responds to complaints of improper lead hazard control activities. The county can issue Cease-and-Desist Orders to stop any unsafe activities, order cleanup of lead contamination, and verifies that cleanup is preformed properly.
- Provides free 8-hour Lead-Safe Work Practices training to teach lead-safe work practices to anyone who regularly disturbs lead-based paint. The course provides information on containment, reduction/control, and cleanup of lead hazards.

2.3.2.2 HUD Lead Hazard Control Grant

Administers a HUD Lead-Based Paint Hazard Control Grant awarded in 2001. The \$2.1 million grant funds a collaborative effort by the MCDPH, the City of Rochester, and the Greater Rochester Housing Partnership. The grant is used to control lead hazards in 380 housing units in high-risk neighborhoods.

2.3.2.3 Healthy Neighborhoods Grant

MCDPH received a 3-year, \$100,000 Healthy Neighborhood grant from the New York State Department of Health for the prevention of childhood lead poisoning. The grant is funding the outreach and environmental staff to conduct individual lead investigations in over 200 homes in the six highest risk zip code areas in Rochester. The investigations will target homes with children without previously elevated blood levels. In addition to the investigations, each household will be given educational information about the hazards of lead, along with an intervention kit with various important household items.

2.3.3 Community-based Initiatives

Several community groups assist in the community's efforts to eliminate lead poisoning. These groups are committed to eliminating lead poisoning through prevention and education; identifying funding options to remove lead from homes; and advocating for the implementation of lead poisoning legislation. These efforts are working together to achieve the goal of eliminating lead poisoning in children.

2.3.3.1 The Coalition to Prevent Lead Poisoning

The Coalition to Prevent Lead Poisoning was originally formed as the Rochester Lead Free Coalition in 2000 to combat the issue of childhood lead poisoning. This coalition is a community-wide organization of governmental and nongovernmental entities that has been a local advocate for prevention of lead poisoning

2. Regulations, Practices, Programs, and Policy

through education, legislation, and better housing. The Coalition's mission is to *"provide leadership and advocacy in a local effort to empower the community and its residents to prevent the lead poisoning of children by creating an environment that is free of lead hazards"* (CGR 2002). The ultimate goal of the Coalition is to assess community needs and develop strategies to make Monroe County lead-safe by 2010.

The Coalition formed the Fund the Fix Work Group to research information and make recommendations on how to provide resources to eliminate lead from the community, especially in low-income neighborhoods. The Work Group's goal was to identify, develop, and disseminate various funding options for homeowners and landlords to remediate lead hazards in their homes. The Work Group also provided information to the community about how homeowners can obtain additional funding.

The Work Group developed a Fund the Fix Report that found that many public and private funding resources are available, and that some landlords and homeowners may face limitations in obtaining the available funding. Some of the limitations identified include a high loan-to-value ratio on the property, impaired credit, and limited income, among others. The findings of the report showed that little to no resources exist for landlords who do not qualify for government programs, especially smaller landlords (Coalition to Prevent Lead Poisoning 2004).

2.3.3.2 "Get the Lead Out"

The 2-year "Get the Lead Out" (GLO) initiative is part of the City's outreach and education component of its lead hazard control initiative. The University of Rochester and Action for a Better Community have undertaken this initiative, which focuses on primary health care, housing, and education in at-risk neighborhoods within the city. GLO originally began to work within the Jay/Orchard Street neighborhood and has expanded to provide assistance to over 100 families throughout the city.

2.3.3.3 "Dust Wipes for All"

As part of the GLO initiative, the City provides funding to Action for a Better Community to run "Dust Wipes for All." The focus of this initiative is to screen for the presence of lead hazards by providing lead dust wipes to residents located in the target neighborhoods and to provide services to families enrolled in GLO.

2.4 Review of Efforts in Other Cities that Have Adopted Similar Lead Ordinances

Rochester is not the first city to attempt to implement a lead poisoning prevention ordinance. Cities such as Milwaukee, New Orleans, and New York City, among others, have introduced lead hazard legislation similar to the ordinances proposed for Rochester. All of these ordinances, similar to the proposed ordinances, require

2. Regulations, Practices, Programs, and Policy

the maintenance and/or elimination of presumed lead hazards, with the goal of eliminating lead poisoning in children.

2.4.1 Milwaukee, Wisconsin

2.4.1.1 Pilot Ordinance

The City of Milwaukee, Wisconsin, enacted a 3-year Residential Rental Property Lead-Based Paint Hazard Control Pilot Project (also known as the Community Lead-Safe Zone Ordinance). This lead-based paint project began on May 1, 1999, and was administered by the Milwaukee Health Department (MHD). The provisions of this ordinance were highly targeted, designed to control lead-based paint hazards in pre-1950 rental properties in two high-risk neighborhoods located within the City of Milwaukee, Wisconsin. The ordinance required owners of rental properties to control lead hazards, pass a MHD risk assessment or reinspection, and procure a lead-based paint hazard control certificate by May 1, 2000.

The ordinance required the owners of properties found to have possible lead hazards to perform lead hazard control on deteriorated windows, to stabilize other deteriorated lead-based paint surfaces, and to maintain the units. Owners were also required to perform visual inspection of units and perform “essential maintenance practices,” if needed, whenever tenants notified them about a suspected lead hazard and whenever tenants vacated the premises. The ordinance prohibited owners from evicting any tenant because the tenant notified the City of possible lead hazards. Units that were found not to be in compliance were subject to rent withholding.

In order to reduce costs to homeowners, the costs of lead hazard controls could be defrayed by City/HUD grants, the certificate requirement was waived if grant funds were not available, and the risk assessments and reinspections were performed by the MHD at no charge. In addition, the City offered free lead-safe work practices training. The City was authorized to institute lead hazard controls in properties that were out of compliance and to levy a charge against the property for up to 40% of the property’s value.

The Milwaukee ordinance was similar to the proposed Rochester ordinances in that it required lead hazard controls to be performed by owners who were found to have possible lead hazards in the home. The main difference between the Milwaukee ordinance and the proposed Rochester ordinances is that it applied only to pre-1950 buildings. Another difference is that the Milwaukee ordinance included funding opportunities to reduce the cost of risk assessments and lead abatement.

2.4.1.2 Evaluation of Pilot Ordinance

Following the implementation of the Pilot Ordinance, a report was compiled by the National Center for Healthy Housing for the Milwaukee Health Department (MHD) and Battelle Memorial Institute to evaluate the effectiveness of the ordinance. This report, “The Milwaukee Pilot Ordinance: An Evaluation of the Implementation Process,” discusses many of the findings of the implementation

2. Regulations, Practices, Programs, and Policy

process which has been incorporated and utilized where applicable throughout this GEIS.

MHD actively organized the implementation of the pilot project. According to the report, the highly organized MHD officials, in addition to HUD, secured funding for properties to become compliant, which were essential in the success of this program. The first step of the implementation process was to notify effected property owners of the pilot project and the financing and technical assistance provided by the MHD. The notification process included direct mailings, group meetings, and one-on-one outreach. In order to ensure compliance, the MHD staffed four full-time, environmental inspectors, their supervisor and an administrative assistant, who were responsible for the ordinance enforcement effort.

Over the course of the 3-year Pilot Ordinance, nearly one hundred percent of the target properties were inspected. Of those properties inspected, 90% were found to need window treatment, 99% of those homes were successfully abated. By the one-year deadline, the MHD had successfully brought 49% of the properties in the target areas into compliance. Four months after the deadline, 77% of the properties were brought into compliance. The study found that the average cost per property for the required lead hazard controls to be \$1,613, with the average cost per unit for the owner at \$434. Nearly half of the owners in the target area did not incur any additional costs. After the two-year re-inspection the MHD found that 80% of the homes were still in compliance with the MHD lead safe housing standard.

As a result of this pilot project, MHD has been able to develop a new voluntary primary prevention project which has resulted in the voluntary treatment of 100 properties a month. In coordination with this voluntary primary prevention, the MHD has secured funding for homes where children have been found to have high blood lead levels.

The Milwaukee Pilot Ordinance report outlines several lessons learned from the implementation of the ordinance:

- **Infrastructure and capacity:** Based on the implementation and enforcement process undertaken by the MHD, it learned that a major factor in the success of the ordinance was a strong infrastructure and a dedicated team of risk assessors. The MHD learned that the penalties for non-compliance must be severe enough to raise the level of concern and change owner's behavior.
- **Clear Language:** The language within the ordinance must be extremely specific to the required actions and who is responsible for those actions.
- **Resistance from property owners and tenants:** The MHD realized that it is important to understand why property owners and tenants resist complying with the ordinance. The MHD learned that programs that use primary preven-

2. Regulations, Practices, Programs, and Policy

tion should have specific strategies for enforcement and softening resistance. These programs must also have a subsidy ratio or at least 3:1, intra-agency cooperation and a highly trained contractor base with the ability to complete projects in less than a week. MHD found that although tenants generally didn't resist the compliance, they would get frustrated if they were displaced for an extended period of time.

- Voluntary solutions: Voluntary solutions to lead-based paint are only effective when the owners realize that a primary prevention approach is affordable, can be done in a short period of time, and is in their best interest. As a result of the ordinance, MHD found that property owners outside of the pilot areas were interested in developing a proactive approach for their own communities. This fully funded voluntary approach that developed outside the pilot project, decreased the requirements for staff resources and increased the number of units remediated.
- Owners of Multiple properties versus owners of one or two units: The MHD found that owners of multiple properties complied quicker than those owners who owned just one or two properties. This was due to the availability of funds and maintenance crews who could complete the work within a short time period. Owners of units who owned just one or two properties generally had limited funds and were fully employed in a business other than contracting/home improvement. Many of these owners found that they didn't have the time, financial ability or physical ability to comply with the ordinance within the required time period. As a result of this, more enforcement actions fell on "smaller" owners.

2.4.2 New Orleans, Louisiana

The City of New Orleans, Louisiana, enacted the Lead Paint Poisoning Ordinance on August 2, 2001. This ordinance is jointly administered by the Department of Health and the Department of Safety and Permits. This ordinance governs all activities that disturb or remove painted surfaces on the interior and exterior of buildings/structures that were built before December 31, 1978, and is intended to minimize the risk of lead poisoning due to painting operations.

The ordinance presumes that any building built before December 31, 1978, contains lead-based paint, which is only refutable by third-party testing. The ordinance prohibits the disturbance or removal of lead-based paint in any way that generates excessive amounts of lead-containing dust or excessive airborne lead concentrations during work, and requires containment barriers during such activities. The ordinance prohibits all paint removal practices as outlined in 24 CFR 35.140, and requires work site cleanup after paint removal.

The ordinance also stipulates the notification procedures to be used during all paint disturbing activities. Notification of any potential lead hazards present in the housing unit is required by property owners to bidding contractors and tenants,

2. Regulations, Practices, Programs, and Policy

as well as the City of New Orleans Department of Health. The contractor doing the lead hazard remediation must notify the owners and all tenants of the work being done and any potential lead hazards. A sign warning of the hazards must be displayed during any power-sanding activities. Paint retailers must post notices of the ordinance requirements.

The ordinance contains an alternative penalty provision for first-time violators, which permits the fine to be suspended if the violator undergoes lead-safe work practice training. In addition, property owners are prohibited from evicting a tenant or increasing the rent in retaliation for the tenant's notifying the City of a possible lead hazard. This is an important part of the ordinance, since the ordinance is enforced through complaints.

The New Orleans ordinance is similar to the proposed Rochester ordinances, in that they both require similar lead hazard controls to be implemented. The substantial differences between the ordinances are: under the New Orleans ordinance, houses built before December 31, 1978, are assumed to contain lead-based paint, whereas the proposed Rochester ordinances make this assumption about structures built prior to January 1, 1978; and unlike the proposed Rochester ordinances, the New Orleans ordinance includes notification procedures that must be followed during all paint disturbing activities, as well as a requirement that paint retailers post notices of the ordinance's requirements.

2.4.3 New York City, New York

The City of New York enacted the Childhood Lead Poisoning Prevention Act on February 4, 2004. The Department of Housing Preservation and Development and the Department of Health and Mental Hygiene are the administering agencies. The purpose of this ordinance is to eliminate lead hazards in multiple-family dwellings and pre-1960 private dwelling units that are not owner-occupied to prevent lead poisoning in children. The ordinance also includes additional code requirements for daycare facilities.

The ordinance presumes that lead-based paint is present in pre-1960 buildings, which can only be rebutted by the owner with an independent lead inspection. The owner is required to have a risk assessment done to identify any lead hazards. Annual inspections are required for units that are occupied by children under 7 years old. Owners must prevent the reasonably foreseeable occurrence of lead hazards in apartments and common areas, and using safe work practices the owners must remediate the lead hazards and the underlying defects that may cause lead hazards. The results of clearance tests performed by a third party must be provided to the tenant. All units must be made "lead safe" before a tenant may occupy the premises.

The New York City ordinance is the most recent of the ordinances, but it differs from the proposed ordinances in that it assumes that only pre-1960 buildings contain lead-based paint and deals with multiple-family dwellings and private units

2. Regulations, Practices, Programs, and Policy

that are not owner occupied. The ordinance also includes a provision for daycare centers and requires annual inspections of homes that are occupied by children under 7 years old.

2.4.4 Other Ordinances/Statutes

2.4.4.1 San Francisco, California

The City/County of San Francisco have implemented two ordinances related to lead-based paint—the Work Practices for Exterior Lead-Based Paint (enacted January 5, 1998), and the Comprehensive Environmental Lead Poisoning Investigation, Management and Enforcement Program (enacted December 23, 1992). These ordinances govern the disturbance and removal of painted surfaces on the exterior of buildings built before December 31, 1978, and educational programs that focus on the prevention of lead poisoning in children.

2.4.4.2 Massachusetts

The State of Massachusetts enacted the country's first lead poisoning prevention law, the Lead Poisoning Prevention and Control Act, which became effective in 1971. The law was revised in 1987 and 1993. This law requires owner-occupied and rental property owners to permanently control specified lead hazards in any unit where a child under the age of six resides. This law also provides a \$1,500/unit state income tax credit for owners who successfully complete permanent controls. The state also made grants and loans available to permanently control lead hazards.

2.4.4.3 Cleveland, Ohio

On August 11, 2004, the City of Cleveland, Ohio, enacted City Ordinance No. 1027-04 relating to lead poisoning and lead hazards. The purpose of this ordinance is to prevent lead poisoning and protect human health by prohibiting improper control of lead hazards during painting and remodeling and in deteriorated areas of all buildings within the city limits built before 1978. The City of Cleveland's Department of Public Health is the administering agency responsible for enforcing this ordinance.

3

Alternatives

This GEIS evaluates and compares two lead poisoning prevention ordinance alternatives that have been introduced by sponsors in the City of Rochester. The alternative ordinances seek to prevent resident poisoning from lead-based paint, but vary as to their critical components. These proposals include the following:

- Enactment of a new Chapter to the Code of the City of Rochester (“the Code”), titled “Chapter 60: Lead Poisoning Prevention Code,” introduced by Councilman Mains (Introductory #20 of 2005) and
- A proposed amendment to Chapter 90 of the Code to add a new article titled “Lead-Based Paint Poisoning Prevention,” Introduced by Mayor Johnson (Introductory #21 of 2005).

A third alternative ordinance was offered by the NYS Coalition of Property Owners and Businesses in their scoping comments and is also evaluated in this GEIS.

The following alternatives analysis describes the ordinances’ provisions in detail and assesses the key differences between the proposed ordinances. The no-action alternative also is evaluated. Refer to Appendix F for full copies of the three proposed ordinances.

3.1 Alternative 1: Proposed Chapter 60: Lead Poisoning Prevention Code (Introductory #20, January 18, 2005)

3.1.1 Description of Alternative 1

Alternative 1 proposes that the Code be amended to include a new chapter titled “Chapter 60: Lead Poisoning Prevention Code.” The proposed chapter includes five articles focusing on lead-safe housing standards, lead-safe work practices, lead disclosure requirements upon sale or lease of residential property, occupant protections, and enforcement. The critical components of each of these articles are addressed below.

3.1.2 Evaluation of Alternative 1

Article 1 requires the owner of “target housing”¹ to obtain and file a “Certificate of Lead Paint Poisoning Prevention Code Compliance” (hereinafter “Compliance Certificate”). Owners would be required to file a Compliance Certificate upon: receiving notice from the City; citation for peeling or deteriorated paint; expiration of a previously issued Compliance Certificate; or upon certain property transfers.²

Section 60-102(B)(2) of Alternative 1 describes how the proposed ordinance would be implemented. This section states that the requirement to obtain an examination will be triggered by notices sent by the City to owners of the housing identified as “the most likely to contain lead hazards, including housing determined in a regular Property Code inspection under Chapter 90 to have damaged or deteriorated paint in buildings constructed prior to 1978”. The ordinance also specified that the City will send notices in a “systemic code enforcement model, with notices first to be sent to target housing located in the census tracts which have been identified in the Center for Governmental Research’s 2002 report “Lead Poisoning Among Young Children in Monroe County,” as those with the highest risk of containing lead-based paint hazards”.

A Compliance Certificate would be issued following inspection of a dwelling by an EPA-certified inspector, risk assessor, or technician and determination that the property is free of lead-based paint hazards. The inspection standards to be employed would be based upon those established in federal regulations (24 CFR Part 35, Subpart R) for interior and exterior painted surfaces, and bare soil. If the inspector determines that lead-based paint conditions exist, the conditions must be remedied by the property owner until levels meet prescribed clearance standards.

Article 2 focuses on lead-safe work practices and applies when work involving the disturbance or removal of lead-based paint, or paint assumed to be lead-based, takes place. Article 2 provides notification requirements and requires the property owner or the contractor to provide notice of lead remediation work being performed, by posted sign or written statement, to the City’s Director of the Neighborhood Empowerment Team (NET) Office, adjacent property owners, property tenants, and contract bidders prior to commencing work on the property. Notice requirements of the owner or contractor may be waived by the owner or tenant if a delay in work would pose an immediate threat to the safety or well-being of the buildings’ occupants. In addition, paint retailers are required to post notices near paint displays notifying paint purchasers about lead-based paint issues.

¹ Target housing includes all residential rental housing constructed prior to 1978 and all owner-occupied residential units constructed prior to 1960, with some listed exceptions.

² An owner may, in some circumstances, file a certification or sworn statement in lieu of a Certificate.

3. Alternatives

Article 2 prescribes methods for protecting building occupants during lead-based paint hazard reduction work, including safe work practices, work site preparation, and the relocation of occupants, if necessary, during performance of the work. Once an inspector has determined that a building has a lead-based paint hazard, hazard reduction activities must be conducted in compliance with Article 2 requirements, and clearance testing and reevaluations are required at the conclusion of the hazard reduction work.

Lastly, Article 2 includes provisions addressing non-compliance with, and violations of, the safe work, notification, and other requirements set forth therein. Specifically, the Article prescribes a process for citizen complaints, City review and evaluation of complaints, and the maintenance of complaint records. In addition, Article 2 authorizes the Director of the Neighborhood Empowerment Team (NET) Office to enter, inspect, and sample; stop work; evacuate a building, residence, or work site; and require performance of specific remediation measures upon violations of Article 2 requirements.

Article 3 addresses disclosure and other issues related to the transfer of property. The City's Department of Community Development would be required to inform the public of their rights and responsibilities upon selling or leasing property. Article 3 requires that the seller of any residential property built prior to 1978, or other property know to contain lead-based hazards, to complete an "Evaluation Upon Sale" checklist to determine whether any deteriorating paint conditions exist and whether any bare soil is proximate to the deteriorating paint. The "Evaluation Upon Sale" must be signed by the seller and provided to the purchaser. Lessors must similarly complete an "Evaluation Upon Leasing" to be provided to the lessee. The seller or lessor also must provide the purchaser or lessee with specific informational materials, disclose the presence of any known or presumed lead-based paint hazard, provide copies of all lead hazard evaluations, and disclose whether a Compliance Certificate has been obtained for the property. A special acknowledgement, as well as the federal Lead Warning Statement, also must be signed and must accompany contracts for sale or lease. Notably, Article 3 requires that sellers' agents ensure compliance with this Article during transactions, establishes an ongoing notification duty for lessors, and provides a right of enforcement to private parties not party to the transaction.

Article 4 prohibits a property owner from taking retaliatory action against a tenant who reports a suspected lead-based paint hazard to the owner or the City, and creates a rebuttable presumption that certain actions taken by the owner shall be deemed retaliatory if they take place within six months of the tenant's complaint or an enforcement action by the City. Article 4 also describes tenants' right to terminate the lease and vacate the premises where there are lead-based paint conditions threatening the life, health, or safety of the tenant. In addition, Article 4 designates a lead-hazard that has gone uncorrected for six months a "rent-impairing violation," thereby prohibiting the owner from receiving rental payments. Lastly, Article 4 creates a private right of enforcement by any person,

neighbor, or organization aggrieved by violation of the Chapter, enabling them to institute a judicial enforcement proceeding.

Article 4 also requires the City of Rochester to develop and maintain two databases: (1) a database identifying all properties for which a Compliance Certificate is required and whether a Compliance Certificate has been filed, and (2) a Voluntary Housing Registry database. Both databases shall be open to public inspection³ and available on the internet.

Article 5: Enforcement is an incomplete section, with some reference to the enforcement provisions located in Chapter 90 of the Code.

3.2 Alternative 2: First Proposed Amendment to Chapter 90: Lead-Based Paint Poisoning Prevention (Introductory #21, January 18, 2005)

3.2.1 Description of Alternative 2

Alternative 2 proposes an amendment to Chapter 90 of the Code and seeks to add a new Article titled “Lead-based Paint Poisoning Prevention.” The proposed Article includes provisions for the inspection of pre-1978 buildings for deteriorated paint (and presumes said paint to be lead-based), lead-safe work standards, tenants’ rights, and notification standards.

3.2.2 Evaluation of Alternative 2

Alternative 2 would require the inspection and evaluation of painted surfaces for deterioration in pre-1978 structures upon application or renewal of a Certificate of Occupancy.⁴ If deteriorated paint is detected, it must be remedied by one of four prescribed methods, all of which require certification by a certified lead-based paint inspector or risk assessor.⁵ If a property owner submits certification that all lead-based paint hazards on that property have been reduced and controlled, a clearance examination and clearance report would be needed to determine whether a deteriorated paint condition has been effectively remediated. The report would be prepared by a certified risk assessor or certified lead-based paint inspector and, upon submission, a Certificate of Occupancy may be issued or a lead-based paint violation cleared. If the property does not pass the clearance evaluation, it must be cleaned and reevaluated until the property passes all necessary criteria.

Alternative 2 would mandate notice requirements, including the placing of warning signs in locations visible to adjacent properties prior to commencing lead-based paint hazard reduction work, or written notice to adjacent property owners in lieu thereof. In addition, the proposal requires the property owner to provide

³ No FOIA request is needed to inspect the databases.

⁴ An inspection may also take place upon the filing of a complaint.

⁵ Different certification requirements apply to properties regulated by an assisted housing program.

written notice to tenants, not less than three days prior to the start of hazard reduction work, that such work will be performed. The proposal also prescribes practices to protect occupants and their belongings and prohibits occupants from entering the work site during hazard reduction activities. Safe work practices, including the prohibition of certain paint-removal methods, would be required.

The proposal would also protect tenants who report suspected lead hazards against retaliatory action and create a rebuttable presumption in favor of the tenant for any action taken by the owner within six months of the tenant's complaint. The proposal also states that the City shall continue to send notices to the County of Monroe listing any health and safety violations found in properties inspected by the City, including lead-based paint hazards. Finally, Alternative 2 would provide for maintenance of a database listing all residential properties where lead hazards have been identified, reduced, and controlled with funds received by the City from HUD. A second database would list all properties granted a Certificate of Occupancy after passage of the new ordinance. The databases would be available for walk-in inspection by the public without FOIA request.

3.3 Alternative 3: Second Proposed Amendment to Chapter 90: Lead-Based Paint Poisoning Prevention (NYS Coalition of Property and Business Owners)

3.3.1 Description of Alternative 3

Alternative 3 also proposes an amendment to add a new Article to Chapter 90 of the Code.

3.3.2 Evaluation of Alternative 3

This proposed ordinance would require the City to provide and pay for lead-based paint hazard inspections in conjunction with an application for a Certificate of Occupancy.⁶ Where an inspection results in the detection of lead-based paint hazards exceeding de minimis levels, repairs would be required. Special inspection requirements would apply to properties where children under age 6 reside. The City would be required to provide a system of grants to property owners to aid in the performance of lead-based paint hazard reduction activities. A clearance examination, to be provided and paid for by the City, would be performed in certain cases, and a clearance report would be issued to the property owner upon a finding that no lead-based paint hazards remain.

Notification requirements for work involving the disruption or removal of lead-based paint are prescribed and include visible signage to notify people in abutting rights of way. The City would provide these signs to any party performing hazard reduction work.⁷ Notice to tenants would also be provided, and tenants would be

⁶ An inspection would also be required upon complaint or request by an owner or occupant.

⁷ The signs should be provided at the same time the required building permit is issued, or within 24 hours of a request therefore.

3. Alternatives

able relocate without penalty under certain circumstances.⁸ Tenants would be responsible for meeting certain standards of housekeeping and cleaning. Lead-safe work practices and work site preparation procedures would also be prescribed.

Under this alternative, the City would be prevented from taking any prosecutory action against any owner or occupant for violations based on evidence revealed during a voluntary inspection. Tenants are protected from retaliatory action and are permitted to raise retaliatory action as a defense in certain actions, but the protection does not extend to occupants of owner-occupied dwellings with less than four units. In addition, the proposal would permit a tenant to vacate the property and terminate the lease if an inspection reveals the existence of lead-based paint hazards and a child under the age of 6 resides in said property.

The proposed article would require the City to develop and maintain a database of “lead-safe homes.” The database would include properties for which a lead-based hazard clearance examination has been successfully completed, for which a Certificate of Occupancy has been granted, and for which lead hazards have been identified, reduced, and controlled with funds received by the City from HUD. The database would be available for public review at City Hall and also on the City’s Web site.

This alternative would require the disclosure of known lead-based paint or lead-based paint hazards by sellers or lessors. In addition, any records or reports pertaining to lead-based paint or lead-based paint hazards in the property would have to be provided to the purchaser or lessee. The ordinance notes that no positive obligation is imposed on the seller or lessor to conduct evaluations or reduction activities.

3.4 No-Action Alternative

3.4.1 Description of the No-Action Alternative

The no-action alternative would involve not incorporating any type of lead poisoning prevention ordinance into the Code of the City of Rochester. The City would continue to address the lead poisoning issue using the existing programs and initiatives (which are addressed in Section 2).

3.4.2 Evaluation of the No-Action Alternative

Among the alternatives considered, the no-action alternative would be the least effective in reducing and controlling lead-based paint hazards potentially present in many homes in Rochester, and it would not further the City’s efforts to prevent human exposure to such hazards. There are a number of effective programs and initiatives ongoing in the City of Rochester and Monroe County that address the lead poisoning issue; however, not adopting an ordinance would preclude a more comprehensive approach to addressing the lead hazard issue in the City. Although

⁸ If a tenant elects to relocate during hazard reduction activities and the activities would not be completed within 60 days, the tenant would have the right to terminate the lease.

the no-action alternative is considered unreasonable, it is addressed in the GEIS to provide a baseline for comparison of the impacts of the alternative ordinances.

3.5 Key Variations and Differences in the Proposed Lead Poisoning Prevention Ordinances

The matrix presented in Table 3-1 is designed to demonstrate the differences between the three proposed ordinances with respect to certain critical provisions.

3.6 Summary of Alternatives

As demonstrated by the above summaries and the matrix presented in Table 3-1, the three alternatives are similarly drafted but differ with respect to their requirements and specific directives. With only a few exceptions, the same types of properties would be subject to lead-based paint inspections under each alternative. In addition, the inspection standards and work site and safety practices are substantially similar in each alternative, presumably because they are based upon the same federal standards. However, the proposed amendment under Alternative 3 imposes more stringent inspection requirements for properties where young children reside. Community awareness provisions in the proposals also are substantially similar.

A notable difference between the alternatives is the procedure by which the City would implement the lead-based paint inspection programs. Under the proposed amendments to Chapter 90 (Alternatives 2 and 3), a Certificate of Occupancy application would be the primary method by which lead-paint inspections would be initiated. Under the proposed new Chapter 60 (Alternative 1), however, imposes the requirement to file a Certificate of Lead Poisoning Prevention Code Compliance, separate and distinct from a Certificate of Occupancy, would be the primary method by which lead-paint inspections would be initiated.

A second notable difference between the alternatives is the City's funding and other direct participation in the lead-paint inspections. The proposed amendment to Chapter 90 under Alternative 3 would specifically require the City to provide and pay for EPA-certified inspectors to perform lead-based paint inspections, clearance inspections, and to create a grant program to assist property owners with hazard reduction work. Alternative 3 also requires the City to recommend the appropriate lead hazard reduction measures required for properties. The City also would be responsible for providing signs and forms to property owners and contractors upon request, whereas the other proposals have no such requirements, or only require the City to retain a sample sign or form for review.

Table 3-1 Comparison of Alternative Lead Poisoning Prevention Ordinances

	Alternative 1: Proposed New Chapter 60: Lead Poisoning Prevention Code	Alternative 2: Proposed Amendment to Chapter 90 (No. 1): Lead-Based Paint Poisoning Prevention	Alternative 3: Proposed Amendment to Chapter 90 (No. 2): Lead-Based Paint Poisoning Prevention
Affected Properties	“Target Housing,” which includes all non-owner occupied residential rental housing constructed prior to 1978, all owner-occupied residential units constructed prior to 1960, and mixed-use properties constructed prior to 1978. [§60-104(B)]	Pre-1978 properties subject to Certificate of Occupancy requirements pursuant to Code §90-16; and properties that are subject of a complaint. [§90-54]	Properties subject to Certificate of Occupancy requirements pursuant to Code §90-16; properties subject to complaint; and properties owned/occupied by a party requesting a lead-based paint inspection. [§90-54(A), (C)]
Exempt Properties	Owner-occupied housing, state/federal housing for the disabled or elderly, and zero bedroom housing (studio/efficiency) are exempt unless a child 6 years of age or younger resides in, is expected to reside in, or is likely to play in or around such housing. [§60-104(B)(1)] Dormitory housing, institutional housing, individual rooms in residential dwellings, and unoccupied residential property set to be demolished also is exempt. [§60-104(B)(2)]	Properties taken by a governmental entity in a foreclosure proceeding that are vacant and secured and either (1) scheduled for demolition or (2) scheduled for sale within 12 months. [§90-61]	Properties that are vacant and secured; however, vacant and secured properties with deteriorated exterior paint that is lead-based or presumed to be lead-based shall be corrected unless the property is (1) scheduled for demolition or (2) scheduled for sale within one year. [§90-62]
Triggers for Inspection or Identification of Lead Hazards	The need to obtain and file a Certificate of Lead Poisoning Prevention Code Compliance (“Compliance Certificate”), specifically: (1) receipt of a notice to obtain a Compliance Certificate; (2) upon citation of the property; (3) upon certain transfers of the property; and (4) upon expiration of a Compliance Certificate. [§60-105(A)] Another trigger is the request of an occupant or another affected person. [§60-108(A)]	Application for or renewal of a Certificate of Occupancy pursuant to Code §90-16; and the filing of a complaint. [§90-54]	Application for a Certificate of Occupancy pursuant to Code §90-16; the filing of a complaint; and upon request of an owner or occupant. [§90-54(A), (C)]

Table 3-1 Comparison of Alternative Lead Poisoning Prevention Ordinances

	Alternative 1: Proposed New Chapter 60: Lead Poisoning Prevention Code	Alternative 2: Proposed Amendment to Chapter 90 (No. 1): Lead-Based Paint Poisoning Prevention	Alternative 3: Proposed Amendment to Chapter 90 (No. 2): Lead-Based Paint Poisoning Prevention
Who Performs Inspection?	Property owner retains EPA-certified Risk Assessor or Lead-Based Paint Inspector if triggered by request of occupant or other affected person, the City shall perform, or cause to be performed the inspection. [§60-108(A)]	City inspectors. [§90-54]	City inspectors or City-funded inspectors [§90-54]
What Must be Provided to Property Owner or Occupant Upon Inspection?	Not stated.	Not stated.	Occupants of the property shall be provided with a lead hazard information pamphlet. [§90-54(E)]
Who is Responsible for Payment of Inspection?	Property owners unless the City is carrying out an enforcement action [§60-104(A)]	The City. [§90-54]	The City [§90-54]
Scope of Inspection	The same standards used for the clearance examination; visual assessment, dust sampling, and paint samples (see below). [§60-106(B)]	<u>Visual</u> inspection for deteriorated paint. [§90-54]	If inspection is triggered by Certificate of Occupancy, there shall be a visual assessment of interior and exterior surfaces for deteriorated paint and evidence of paint chips; inspection for the presences of bare soil [§90-54(A)] If inspection is complaint driven, only the area of the dwelling unit or common area complained of shall be inspected. [§90-54(C)]
What is Required if Deteriorated Lead-based or Presumed Lead-based Paint or Other Lead-based Paint Hazards are Detected During Inspection?	When a unit is found to contain lead-paint hazards, a plan for controlling the hazards using lead-safe work practices shall be prepared and controls put in place within sixty (60) days. If the unit fails a clearance examination, a new plan requiring hazard controls shall be implemented within thirty (30) days. Once the dwelling passes a clearance inspection, a Certificate with a six month duration shall be issued. Thereafter, new Certificates shall be renewed at six-month intervals until such time as the unit passes clearance without the need for new controls. At that point, the unit will be	The condition may be corrected by: (1) certification by a certified lead-based paint inspector or certified risk assessor that the property has been determined to be lead-free upon an inspection conducted in accordance with 24 CFR §35.1320; (2) certification by a certified lead-based paint inspector or risk assessor that all lead-based paint on the property has been identified and removed and clearance has been achieved in accordance with 24 CFR §§35.1320, 35.1325 and 35.1340;	If deteriorated lead-based or presumed lead-based paint is found in a dwelling occupied by a child under 6 years of age, or is for rent or for sale, the inspector may issue a Notice and Order requiring the correction of such condition. [§90-55]. Upon completion of such corrections, a second inspection shall be performed. If the unit passes the visual inspection, dust wipe screening shall be performed on certain interior surfaces in order to obtain a clearance report. [§90-54(B)]

Table 3-1 Comparison of Alternative Lead Poisoning Prevention Ordinances

	Alternative 1: Proposed New Chapter 60: Lead Poisoning Prevention Code	Alternative 2: Proposed Amendment to Chapter 90 (No. 1): Lead-Based Paint Poisoning Prevention	Alternative 3: Proposed Amendment to Chapter 90 (No. 2): Lead-Based Paint Poisoning Prevention
What is Required if Deteriorated Lead-based or Presumed Lead-based Paint or Other Lead-based Paint Hazards are Detected During Inspection? (continued)	<p>issued first a one-year Certificate and then three-year Certificates as provided for in §60-105(C)(1). [§60-105(C)(2)]</p> <p>In addition, where a lead hazard had been identified, the clearance standards in 24 CFR §35.1320(b)(2), including soil-lead hazard standards, shall be met before a “Certificate of Lead Poisoning Prevention Code Compliance” may be issued and filed. With respect to porches, the standard required for clearance shall be 400 µg/dL, provided however, that if a porch is found to contain more than 40µg/dL the inspector, assessor or technician shall advise the occupants of the unit that the porch constitute a potential lead-paint hazard that requires continued caution and that the occupants should read and follow closely the information in the EPA brochure regarding lead safe maintenance practices such as frequent washing, and that brochure shall be provided to the occupants with the relevant passages highlighted. [§60-106(D)]</p>	<p>(3) certification by the Rochester Housing Authority or other state/federal supervising agency that regulates an assisted housing program stating that the property is in compliance with inspection and clearance requirements and, if applicable, 24 CFR Part 35; and</p> <p>(4) certification by a certified risk assessor that all lead-based paint and hazards have been identified, reduced, and controlled, and clearance achieved in accordance with 24 CFR §§35.1320, 35.1330, and 35.1340. [§90-55]</p>	<p>If a lead-based paint hazard is detected upon visual inspection, the commissioner shall recommend hazard reduction activities and, upon completion, a clearance report shall be issued upon:</p> <p>(1) certification by a certified lead-based paint inspector or risk assessor that the property was inspected and does not contain lead;</p> <p>(2) certification by a certified lead-based paint inspector or risk assessor that all lead-based paint has been identified and removed and clearance was achieved in accordance with (proposed) §90-57;</p> <p>(3) certification by the Rochester Housing Authority or other state/federal supervising agency that regulates an assisted housing program stating that the property is in compliance with inspection and clearance requirements and, if applicable, 24 CFR Part 35; and</p> <p>(4) certification by a certified lead-based paint inspector or assessor that all lead-based paint and hazards have been identified, reduced, and controlled, and clearance achieved in accordance with (proposed) §90-57. [§90-56(A)]</p>
When is a Clearance Examination Necessary?	A clearance examination is necessary when a lead hazard is identified. [§§60-105 (C)(2), 60-106(D) and (E), 60-206(A)(6)]	After a lead condition is corrected via certification by a certified risk assessor that all lead-based paint and hazards have been identified, reduced, and controlled, and clearance achieved in accordance with 24 CFR §§35.1320, 35.1330, and 35.1340. [§90-56]	Upon implementation of hazard reduction activities. [§90-56(A)]

Table 3-1 Comparison of Alternative Lead Poisoning Prevention Ordinances

	Alternative 1: Proposed New Chapter 60: Lead Poisoning Prevention Code	Alternative 2: Proposed Amendment to Chapter 90 (No. 1): Lead-Based Paint Poisoning Prevention	Alternative 3: Proposed Amendment to Chapter 90 (No. 2): Lead-Based Paint Poisoning Prevention
Who Performs the Clearance Examination?	A certified risk assessor, certified lead-based paint inspector, or a person who has successfully completed an EPA-accepted training course for sampling technicians. [§60-106(A)]	A certified risk assessor or certified lead-based paint inspector. [§90-56(A)]	A certified risk assessor or certified lead-based paint inspector provided by the City. [§90-57(A)]
Who is Responsible for Payment of Clearance Examination?	Property Owners. [§60-106(D)]	Property Owner. [§90-55(D)]	The City. [§90-57(A)]
What is the Scope of Clearance Examination?	<p>Examinations shall include a visual assessment and dust sampling and should be conducted to comply with 40 CFR §745.227(e)(8). Random sampling is appropriate for multi-unit properties with more than 10 dwellings according to 40 CFR §745.227(e)(9). [§60-106(B)(1)]</p> <p>If exterior painted surfaces have been disturbed due to hazard reduction, the ground and outdoor living areas close to the affected exterior painted surfaces shall be examined. [§60-106(B)(3)]</p> <p>Dust sampling shall be performed according to 24 CFR §35.1315. [§60-106(B)(3)]</p>	<p>Examination shall be performed in dwelling units, common areas, and exterior areas (including porches) in accordance with 40 CFR §745.227.</p> <p>If exterior painted surfaces have been disturbed due to hazard reduction, maintenance or rehabilitation activity, the ground and outdoor living areas close to the affected exterior painted surfaces shall be examined.</p> <p>The examination shall consist of visual assessment, dust sampling in accordance with 24 CFR §35.1315, and interpretation of sampling results.</p> <p>For complaint-driven inspections, examination shall be of only the dwelling unit or common area complained of. [§90-56(B)]</p>	<p>Examination shall include wipe samples and dust sampling. [§90-57(B)(3), (4)]</p> <p>If exterior painted surfaces have been disturbed, a visual assessment shall be made of the ground and outdoor living areas close to the painted surfaces. [§90-57(B)(2)]</p> <p>For complaint-driven inspections, examination shall be of the dwelling unit or common area complained of only. [§90-57(B)(5)]</p>
Clearance Examination Report	<p>Shall include:</p> <ul style="list-style-type: none"> (1) address of property or specific dwelling, if applicable; (2) date of the examination; (3) name, address, EPA number and signature of examiner; (4) results of visual assessment; and 	<p>Shall include:</p> <ul style="list-style-type: none"> (1) address of property or specific dwelling, if applicable; (2) date of the examination; (3) name, address, EPA number and signature of examiner; (4) results of visual assessment; and 	<p>Shall include:</p> <ul style="list-style-type: none"> (1) address of property or specific dwelling, if applicable; (2) date of the examination; (3) name, address, EPA number and signature of examiner; (4) results of visual assessment; and

Table 3-1 Comparison of Alternative Lead Poisoning Prevention Ordinances

	Alternative 1: Proposed New Chapter 60: Lead Poisoning Prevention Code	Alternative 2: Proposed Amendment to Chapter 90 (No. 1): Lead-Based Paint Poisoning Prevention	Alternative 3: Proposed Amendment to Chapter 90 (No. 2): Lead-Based Paint Poisoning Prevention
Clearance Examination Report (continued)	<p>(5) results of dust sampling and name/address of processing laboratory. [§60-106(C)(1)-(2)]</p> <p>If hazard reduction or maintenance activity has taken place, the report also must include:</p> <p>(1) start and completion dates of activity;</p> <p>(2) name and address of each firm conducting the activity and the supervisor;</p> <p>(3) detailed description of the activity; and</p> <p>(4) description of soil hazard reduction, if applicable. [§60-106(C)(3)]</p> <p>If abatement is performed, the report shall be a 40 CFR §745.227(e)(10) abatement report. [§60-106(C)]</p>	<p>(5) results of dust sampling and name/address of processing laboratory.</p> <p>If abatement is performed, the report shall be a 40 CFR §745.227(e)(10) abatement report. [§90-56(C)]</p>	<p>(5) results of dust sampling and name/address/EPA number of processing laboratory; and</p> <p>(6) detailed written description of any abatement performed. [§90-57(B)]</p>
Clearance Standards	<p>Under Alternative 1, the clearance standards are essentially identical as those discussed under Alternative 2 and 3, but are described slightly different, as follows.</p> <p>Clearance standards in 24 CFR §35.1320(b)(2) shall generally apply.</p> <p>With respect to porches, the standard for clearance shall be 400 µg/sq. ft.; however, should the porch contain more than 40 µg/sq. ft., the examiner shall advise the occupants and provide them with the EPA “Protect Your Family From Lead in Your Home” brochure (“EPA pamphlet”) highlighted to reflect relevant passages. [§60-106(D)]</p>	<p>Under Alternative 2, the clearance standards are essentially identical as those discussed under Alternative 1 and 3, but are described slightly different, as follows.</p> <p>Dust-lead standards in 40 CFR §745.65(b) must be met for clearance, generally.</p> <p>With respect to porches, the standard for clearance shall be 400 µg/sq. ft.; however, should the porch contain more than 40 µg/sq. ft., the examiner shall advise the occupants to read and follow the lead hazard information pamphlet. [§90-56 (D)]</p>	<p>Under Alternative 3, the clearance standards are essentially identical as those discussed under Alternative 1 and 2, but are described slightly different, as follows.</p> <p>Dust level standards are 40 µg/sq. ft. for floors, 250 µg/sq. ft. for interior windowsills, and 400 µg/sq. ft. for window troughs.</p> <p>Clearance levels for bare soil in play areas is 400 parts per million; for other areas, 1,200 parts per million.</p> <p>For porches, the standard for clearance shall be 400 µg/sq. ft.; however, should the porch contain more than 40 µg/sq. ft., the examiner shall advise the occupants to read and follow the lead hazard information pamphlet. [§90-57(C)]</p>

Table 3-1 Comparison of Alternative Lead Poisoning Prevention Ordinances

	Alternative 1: Proposed New Chapter 60: Lead Poisoning Prevention Code	Alternative 2: Proposed Amendment to Chapter 90 (No. 1): Lead-Based Paint Poisoning Prevention	Alternative 3: Proposed Amendment to Chapter 90 (No. 2): Lead-Based Paint Poisoning Prevention
What Occurs Upon Completion of Clearance Examination?	<p>If clearance standards are met, a Compliance Certificate will be issued. [§§60-105, 60-106]</p> <p>If clearance standards are not met, the surfaces shall be recleaned, treated by hazard reduction, and retested until clearance levels are met and a Compliance Certificate is issued. [§60-106(E)]</p>	If clearance standards are met, a Certificate of Occupancy may be issued or lead violation cleared. [§90-56(D)]	If clearance has been achieved, a clearance report shall be issued to owner, occupant, and City. [§90-54(D)]
Notice to City (prior to commencement of LBP work)	The property owner or contractor working on owner's behalf must provide written notice to the City prior to commencing work disturbing or removing lead-based paint. [§60-203(A)]	Not stated.	Not stated.
Notice to Adjacent Property Owners and Occupants Regarding Exterior Lead-Based Paint Hazard Reduction Work	<p>The property owner or contractor shall post signs before commencing exterior lead-based paint work. The sign must meet certain size and language requirements.</p> <p>If a sign cannot be posted, notice in written form to the occupants of adjacent properties shall be sufficient. [§60-203(C)]</p>	<p>The property owner or contractor performing lead-based paint hazard reduction work upon an exterior surface shall post signs in a conspicuous location meeting certain size and language requirements. The sign must be posted prior to commencing work.</p> <p>If a sign cannot be posted, notice in written form (i.e., letter or memo) to the occupants of adjacent properties shall be sufficient. [§90-57(D)]</p>	<p>Prior to commencing any lead-based hazard reduction work for which a building permit is required under Code §39-207, the owner or contractor must post a sign or signs meeting certain size and language requirements in visible locations.</p> <p>If a sign cannot be posted, the owner or contractor shall notify the occupants of adjacent properties by first-class mail at least 3 days prior to commencing work. [§90-58(B)]</p>
Notice to Property Tenants Regarding Interior and/or Exterior Lead-Based Paint Hazard Reduction Work	The property owner shall provide written notice to property tenants no less than 3 days prior to commencing work on the building and provide tenants with an EPA pamphlet. Such notice shall be in both English and Spanish and comply with 40 CFR §745. [§60-203(D)]	The property owner shall provide written notice to property tenants no less than 3 days prior to commencing hazard reduction work and provide tenants with a lead hazard information pamphlet. Such notice shall be in both English and Spanish and comply with 40 CFR Part 745 and include specific language. [§90-57(E)]	Property owner shall provide written notice to property tenants not less than 24 hours prior to commencing work and provide tenants with a lead hazard information pamphlet. Such notice shall meet certain language requirements. [§90-58(C)]

Table 3-1 Comparison of Alternative Lead Poisoning Prevention Ordinances

	Alternative 1: Proposed New Chapter 60: Lead Poisoning Prevention Code	Alternative 2: Proposed Amendment to Chapter 90 (No. 1): Lead-Based Paint Poisoning Prevention	Alternative 3: Proposed Amendment to Chapter 90 (No. 2): Lead-Based Paint Poisoning Prevention
Notice by Contractor	If work is being performed by a contractor, the contractor shall notify the property owner of potential lead hazards during the project by providing the owner with an EPA pamphlet. [§60-203(E)]	If hazard reduction work is being performed by a contractor on residential property, the contractor shall notify the property owner of potential lead hazards during the project by delivering to the owner a copy of the lead hazard information pamphlet at least 3 days prior to commencing work. [§90-57(F)]	If hazard reduction work is being performed by a contractor, the contractor shall provide the signs, notice, and lead hazard information required by (proposed) §90-58(B) and (C) [§90-58(D)]
Provision of Signs, Pamphlets, and Notices	The City shall make sample forms and signs available to the public. [§60-203(B)-(D)] The City shall make the EPA pamphlet available to the public. [§60-303(B)]	Not stated.	The Commissioner shall provide the signs required by (proposed) §90-58(B) at the same time a building permit is issued for the reduction work or within 24 hours of a written request therefore. [§90-58(B)(3)] The Commissioner shall provide copies of form letters, notices, and lead hazard information pamphlets within 24 hours of a written request therefore. The form notice should also be available on the City's Web site. [§§90-58(E), 90-63]
Notice to County	With respect to households in which renters receive assistance through the Monroe County Department of Human and Health Services, the City shall send notices to the County describing identified lead hazard conditions and other information necessary pursuant to Social Services Law §143-b. [§60-403]	The City shall (continue to) send notices to the County of Monroe listing any lead-based paint hazards identified upon inspection of properties by the City. [§90-63]	The City shall send notices to the County of Monroe listing health and safety violations found during lead-based inspections conducted by or at the direction of the City. [§90-64]
Notice by Paint Retailer, Tool or Equipment Supplier	Sellers and retailers of paint and anyone renting or selling tools or equipment commonly used to disturb painted surfaces are required to post a sign informing purchasers containing specific language. [§60-203(H)]	Not stated.	Not stated.

Table 3-1 Comparison of Alternative Lead Poisoning Prevention Ordinances

	Alternative 1: Proposed New Chapter 60: Lead Poisoning Prevention Code	Alternative 2: Proposed Amendment to Chapter 90 (No. 1): Lead-Based Paint Poisoning Prevention	Alternative 3: Proposed Amendment to Chapter 90 (No. 2): Lead-Based Paint Poisoning Prevention
Exceptions to Notice Requirements	A property owner may commence or authorize the commencement of hazard reduction work less than 3 days after providing notices should there be an emergency or upon written request of a tenant to do so. [§90-57(G)-(H)]	A property owner may commence or authorize the commencement of hazard reduction work less than 3 days after providing notices should there be an emergency or upon written request of a tenant to do so. [§90-57(G)-(H)]	A property owner may commence or authorize the commencement of hazard reduction work without or less than 24 hours after providing signs and notices should there be an emergency condition or upon written request of a tenant to do so. [§90-58(F)-(G)]
Who Pays for Lead-based Hazard Reduction and/or Abatement Work?	Not stated.	Not stated.	The property owners, but subsidized by a system of grants to the property owners provided by the Community Development Department and budgeted by the City Council. The grants shall be distributed under certain guidelines. [§90-56(B)]
Occupant Protection During Hazard Reduction Work	Occupants shall not be permitted to enter work site during hazard reduction work and may enter only after work is finished and clearance achieved, if applicable. Occupants shall be temporarily relocated during hazard reduction work under some circumstances. [§60-204(A)]	Occupants shall not be permitted to enter work site during hazard reduction work and may enter only when clearance has been achieved. [§90-58(A)(1)] Occupants shall be temporarily relocated during hazard reduction work under some circumstances. [§90-58(A)(2)]	Tenants shall be permitted to relocate during hazard reduction activities under some circumstances and shall not be liable for rents accruing during the relocation period. [§90-59(A)(1)]
Work site Preparation and Safe Work Practices	The work site shall be prepared to prevent the release of leaded dust, paint chips, and other debris. A warning sign consistent with 29 CFR §1926.62(m) shall be posted at each room where reduction work is taking place or at each main and secondary entranceway. [§60-204(B)] The work site shall be secured against unauthorized entry and occupant's belongings shall be protected from contamination. [§§60-204(A)(3), 60-205(B)]	The work site shall be prepared to prevent the release of leaded dust, paint chips, and other debris. A warning sign consistent with 29 CFR §1926.62(m) shall be posted at each room where reduction work is taking place or at each main and secondary entranceway. [§90-58(B)] The work site shall be secured against unauthorized entry and occupant's belongings shall be protected from contamination. [§90-57(A)(3)]	Practices that contain and prevent/minimize the release of lead dust and other debris shall be used. [§90-59(B)] The work site shall be secured against unauthorized entry and occupant's belongings shall be protected from contamination. [§90-59(A)(2)]

Table 3-1 Comparison of Alternative Lead Poisoning Prevention Ordinances

	Alternative 1: Proposed New Chapter 60: Lead Poisoning Prevention Code	Alternative 2: Proposed Amendment to Chapter 90 (No. 1): Lead-Based Paint Poisoning Prevention	Alternative 3: Proposed Amendment to Chapter 90 (No. 2): Lead-Based Paint Poisoning Prevention
Work site Preparation and Safe Work Practices (continued)	Any party may report violations of safe work practices by filing a complaint with the City. Upon evaluating the complaint, the City may enforce safe work practices and/or impose penalties. [§§60-207, 60-208, 60-209]		
Prohibited Methods of Lead-Based Paint Removal	All methods of paint removal listed in 24 CFR §35.140 are prohibited except where painted surfaces do not exceed de minimis levels. [§60-205(A)]	The removal methods listed in 24 CFR §35.140 shall not be used except where painted surfaces do not exceed de minimis levels. [§90-59(B), (E)]	Certain removal methods (very similar to those referenced in Proposed Amendment to Chapter 90 No. 1) shall not be used except where painted surfaces do not exceed de minimis levels. [§90-60(B), (D)]
Ongoing Maintenance Requirements	If a property is determined to have lead-based paint hazards, the owner is required to perform annual visual inspections and to stabilize and control the hazards. The property would be reevaluated to determine the status of hazards. [§60-206]	Not stated.	Not stated.
Protection Against Prosecution	<u>The provisions of this section [§60-402(A) (B)] shall not be given effect in any case in which it is established that the condition from which the complaint or action arose was caused by the tenant, a member of the tenant's household, or a guest of the tenant. Nor shall it apply in a case where a tenancy was terminated pursuant to the terms of a lease as a result of a bona fide transfer of ownership[§60-402(C)].</u>	<u>The provisions of this section [§90-62(A) (B)], shall not be given in any case in which it is established that the condition from which the complaint or action arose was caused by the tenant, a member of the tenant's household, or a guest of the tenant. Nor shall it apply in a case where a tenancy was terminated pursuant to the terms of a lease as a result of a bona fide transfer of ownership [§90-62(C)].</u>	Owner shall not be prosecuted for any evidence revealed during a voluntary lead inspection. [§90-63(A)] Occupants shall not be prosecuted for any evidence revealed during a voluntary lead inspection. [§90-63(A)] <u>Section §90-63 shall apply to all rental residential premises except owner-occupied dwellings with less than four units. However, the provisions of this section shall not be given effect [§90-63] (G):</u> ■ <u>In any action in which it is established that the condition from which the complaint or action arose did not exist, or was caused by the tenant, a member of the tenant's household, or a guest of the tenant, including by lack of routine cleaning and maintenance;</u>

Table 3-1 Comparison of Alternative Lead Poisoning Prevention Ordinances

	Alternative 1: Proposed New Chapter 60: Lead Poisoning Prevention Code	Alternative 2: Proposed Amendment to Chapter 90 (No. 1): Lead-Based Paint Poisoning Prevention	Alternative 3: Proposed Amendment to Chapter 90 (No. 2): Lead-Based Paint Poisoning Prevention
Protection Against Prosecution			<ul style="list-style-type: none"> ■ <u>In any action involving a complaint regarding a condition that has been subject of a prior complain for which no corrective action was ordered;</u> ■ <u>Where a tenancy was terminated pursuant to the terms of a lease as a result of a bona fide transfer of ownership; or</u> ■ <u>In any action based upon nonpayment of rent, violation by the tenant of the terms and conditions of the lease or rental agreement, or commission of waste upon the premises by the tenant, a member of the tenant's household, or a guest of the tenant.</u>
Protection Against Retaliatory Action	Prohibits owner from taking retaliatory action against a tenant who reports a lead-based paint hazard to the owner or the City; creates a rebuttable presumption that an owner's attempt to raise rent, cut services, refuse to renew, or evict within 6 months after any report to the owner or the City, or any enforcement action regarding a suspected lead hazard, is retaliatory except in instances of nonpayment of rent and commission of waste upon the premises. [§60-402(A)-(B)]	Prohibits owner from taking retaliatory action against a tenant who reports a lead-based paint hazard to the City; creates a rebuttable presumption that an owner's attempt to raise rent, cut services, refuse to renew, or evict within 6 months after any report to the owner or the City, or any enforcement action regarding a suspected lead hazard, is retaliatory except in instances of nonpayment of rent and commission of waste upon the premises. [§90-62]	<p>Prohibits owner from taking retaliatory action against an occupant but does not apply to owner-occupied dwellings with less than four units. [§90-63(G)]</p> <p>Creates a rebuttable presumption that the owner/landlord is acting in retaliation if the owner/landlord serves a notice to quit, instituted an action or proceeding to recover possession, or attempts to substantially alter the terms of the lease within 6 months after a tenant makes a good faith complaint or an inspection made with the consent of the tenant revealed lead-based paint hazards. [§90-63(C)(2)]</p> <p>Operates as an affirmative defense in occupant's action to recover real property or possession thereof, but is not available for actions based upon nonpayment of rent and lease violations. [§90-63(D), (G)(4)]</p>

Table 3-1 Comparison of Alternative Lead Poisoning Prevention Ordinances

	Alternative 1: Proposed New Chapter 60: Lead Poisoning Prevention Code	Alternative 2: Proposed Amendment to Chapter 90 (No. 1): Lead-Based Paint Poisoning Prevention	Alternative 3: Proposed Amendment to Chapter 90 (No. 2): Lead-Based Paint Poisoning Prevention
Tenants/Occupants Rights to Terminate Lease	<p>Any resident of a rental dwelling unit who has been notified that said dwelling unit contains a lead-based paint condition determined to be detrimental to life, health, or safety shall have the right to vacate and terminate the lease. [§60-407]</p> <p>If lead hazards in a dwelling unit are not controlled within 60 days after disclosure (see below), the tenant may vacate without violating the lease agreement. [§60-306(B)]</p>	Not stated.	<p>If tenant elects to relocate during hazard reduction activities and the activities would not be completed within 60 days, the tenant shall have the right to terminate the lease. [§90-59(A)(3)]</p> <p>If a lead inspection reveals the existence of lead-based paint hazards in a dwelling unit where a child under the age of 6 resides, the tenant has the right to vacate the unit and terminate the lease. [§90-63(B)]</p>
Additional Protections, Rights, and Causes of Action	<p>Lead hazardous conditions in multiple dwellings that have gone uncorrected for 6 months constitute “rent impairing violations.” Notice of the violations would be sent to both the owner and tenants, and the owner would not be entitled to recover rent from the tenants until the violation is cleared.</p> <p>In addition to providing tenants with the above notice, the City shall notify the tenants of additional rights under Real Property Law §235-b and Real Property Actions and Proceedings Law §755. [§§60-404, 60-405]</p>	Not stated.	Not stated.

Table 3-1 Comparison of Alternative Lead Poisoning Prevention Ordinances

	Alternative 1: Proposed New Chapter 60: Lead Poisoning Prevention Code	Alternative 2: Proposed Amendment to Chapter 90 (No. 1): Lead-Based Paint Poisoning Prevention	Alternative 3: Proposed Amendment to Chapter 90 (No. 2): Lead-Based Paint Poisoning Prevention
Community Awareness	<p>The City shall establish <u>and maintain</u> a database identifying <u>and tracking</u> all properties for which a Compliance Certificate is required to be filed and indicating whether a Compliance Certificate was filed and the date it was filed. [§60-409(A)]. <u>The City of Rochester department responsible for maintaining this tracking database was not identified.</u></p> <p>The city shall maintain a Voluntary Housing Registry to which shall be added, at the owner's request, the address and contact information for any property for which the owner demonstrates that a certified lead assessor, inspector, or technician affirms the absence of lead hazards. [§60-409(B)] Both databases shall be open to the public for inspection and available on the internet without FOIA request. [§60-409(D)]</p>	<p>The City shall maintain a publicly accessible database listing all residential properties where lead hazards have been identified, reduced, and controlled with funds received by the City from the United States Department of Housing and Urban Development , which require that such a database be maintained. The City also shall maintain a database of all residential properties granted a Certificate of Occupancy after the effective date of this ordinance. [§90-64(A)]</p> <p>Both databases shall be open to public inspection and no FOIA request shall be needed to inspect. [§90-64(B)]</p>	<p>The City shall maintain a "lead-safe homes" database listing properties that have achieved clearance, received a Certificate of Occupancy after the effective date of the (proposed) Article, and properties where lead hazards have been identified, reduced, and controlled with funds received by the City from the United States Department of Housing and Urban Development, which requires that such a database be maintained. [§90-62(A)]</p> <p>The database shall be available for public inspection and on the City's Web site, and no FOIA request shall be needed to inspect. [§90-62(B)]</p>
Disclosure and Other Requirements Upon Property Transfer	<p>The City shall prepare a lead hazard "Evaluation Upon Sale" and "Evaluation Upon Leasing" checklist to be made available to all sellers, lessors, and other transferors. [§60-303(A)]</p> <p>Sellers and lessors shall inspect property prior to transfer using the evaluation checklists. The checklists should be provided to the purchasers/tenants. [§60-304(A)]</p> <p>Sellers and lessors must provide purchasers and tenants with the EPA pamphlet and an insert summarizing (proposed) Chapter 60. Sellers/lessors must disclose known lead hazards and whether a Compliance</p>	Not stated.	<p>The seller or lessor shall disclose to the purchaser or tenant the presence of any known lead-based paint or hazards in or around the transferable property. The seller or lessor shall provide the purchaser or tenant with records or reports regarding lead-based paint in or at the property, a lead hazard information pamphlet, and a notice containing specific language. [§90-64(A)]</p> <p>The seller/lessor shall permit the purchaser a 10-day period to conduct a lead-based paint assessment prior to purchase. [§90-64(B)]</p>

Table 3-1 Comparison of Alternative Lead Poisoning Prevention Ordinances

	Alternative 1: Proposed New Chapter 60: Lead Poisoning Prevention Code	Alternative 2: Proposed Amendment to Chapter 90 (No. 1): Lead-Based Paint Poisoning Prevention	Alternative 3: Proposed Amendment to Chapter 90 (No. 2): Lead-Based Paint Poisoning Prevention
Disclosure and Other Requirements Upon Property Transfer (continued)	<p>Certificate is needed or has been obtained for the property. The sellers/lessors also must provide the purchasers/tenants with records or reports regarding lead-based paint hazards and the property. [§60-304(B)(1)-(4)]</p> <p>Sellers/lessors must allow purchasers/tenants 10 days to conduct a lead-based paint inspection prior to purchase. [§60-304(B)(5)]</p> <p>All contracts for the transfer of property constructed prior to 1978 and other properties containing lead-based paint must be accompanied by the Federal Lead Warning Statement and an Acknowledgement. [§60-304(C)]</p> <p>Sellers/lessors must disclose any known lead-based paint hazards to any agent working on their behalf. The agent must inform the sellers/lessors of their obligations regarding (proposed) Chapter 60. [§60-304(E)-(F)]</p>		

3. Alternatives

The alternatives also differ with regard to their notice requirements. Alternative 1 (the proposed new Chapter 60) requires the property owner to give notice to the City upon commencement of work that would involve potentially disturbing or removing lead-based paint, but the other proposals do not. In addition, the proposed new Chapter 60 would require paint and tool retailers to post a notice, whereas there is no similar requirement under the other alternatives.

The alternatives also vary with respect to the extent of protection and rights they afford to owners and tenants. The proposed amendment to Chapter 90 under Alternative 3 would prevent the City from taking any prosecutory action against any owner or occupant for violations based on evidence revealed during a voluntary lead inspection. Generally, however, Alternative 1 (the proposed new Chapter 60) provides the most protection by providing the most liberal lease termination options, permitting private causes of action, and designating the failure to correct lead hazards within a specific period of time a rent-impairing violation.

Lastly, the proposals differ with respect to the requirements imposed upon the transfer of properties. The proposed amendment to Chapter 90 under Alternative 2 does not impose any disclosure or related requirements upon transfer. Alternative 3 includes disclosure requirements on sale or lease. Alternative 1 (the proposed new Chapter 60) would provide the most comprehensive disclosure and transfer requirements, and also imposes requirements upon agents working on behalf of sellers. These provisions mirror existing federal requirements.

A comprehensive evaluation of impacts associated with each of these three alternatives on resources in the City of Rochester is provided in Section 5 of this GEIS.

4

Existing Environment

Section 4 provides a description of environmental, social, and economic resources that maybe affected by the implementation of the proposed action.

4.1 Methodology

Numerous studies and analyses of the lead poisoning issue in the City of Rochester and Monroe County have been completed in recent years. (Section 8, References, lists the reports and journals articles that were used in the development of this GEIS.) These studies provided the background information for this analysis and, in part, the description of the existing environment. Demographic and housing information obtained from these studies has been updated with current data where available.

Information used to develop this GEIS was gathered from various sources, including the City of Rochester Bureau of Housing and Project Development, the Rochester Housing Authority, and the Monroe County Department of Public Health, along with several other reports generated by nongovernmental organizations and information provided by key community stakeholder groups. This information is presented in the following section and provides the basis for the impact analysis presented in Section 5.

This analysis is based on and evaluated against some of the key risk factors that are known to be associated with lead-based paint hazards and lead poisoning, especially in children who are believed to be most susceptible to lead poisoning (see Section 4.7). The housing and demographic characteristics statistically associated with elevated blood lead levels include age of housing, tenure (owner/renter), age of individual, race, income, educational attainment, and housing value (CGR 2002).

4.2 Land Use

Land in the City of Rochester is densely developed with a wide range of urban land uses (see Table 4-1). Commercial, community service, and public service properties account for 20.7%, 10.4%, and 8.6% of land use, respectively. The predominant land use in the city, however, is residential, accounting for 6,742 acres, or 35.8% of the total land area.

Table 4-1 Land Use

Land Use	Acres	Percent
Residential	6,742	35.8%
Commercial	3,892	20.7%
Community Service	1,952	10.4%
Public Service	1,609	8.6%
Manufacturing/Industrial	1,550	8.2%
Vacant	1,295	6.9%
Recreational and Entertainment	894	4.8%
Park, Public Land, and Other	880	4.7%
Total	18,815	100.0%

Source: City of Rochester 2005a.

Residential development is widely distributed throughout the city, spreading outward from the city's central business district to its municipal boundaries. The distribution of residential and other land uses in Rochester is depicted by Figure 4-1.

4.3 Community Facilities and Resources

The City of Rochester has significant community facilities and resources to offer its residents and visitors. Rochester is a culturally diverse area, with numerous unique neighborhoods catering to different lifestyles, interests, and demographics. The city is situated on the shore of Lake Ontario, and the Genesee River flows through the city center. The city has 42 recreation centers, 880 acres of parks, and 11 public libraries (City of Rochester 2004).

Public Safety

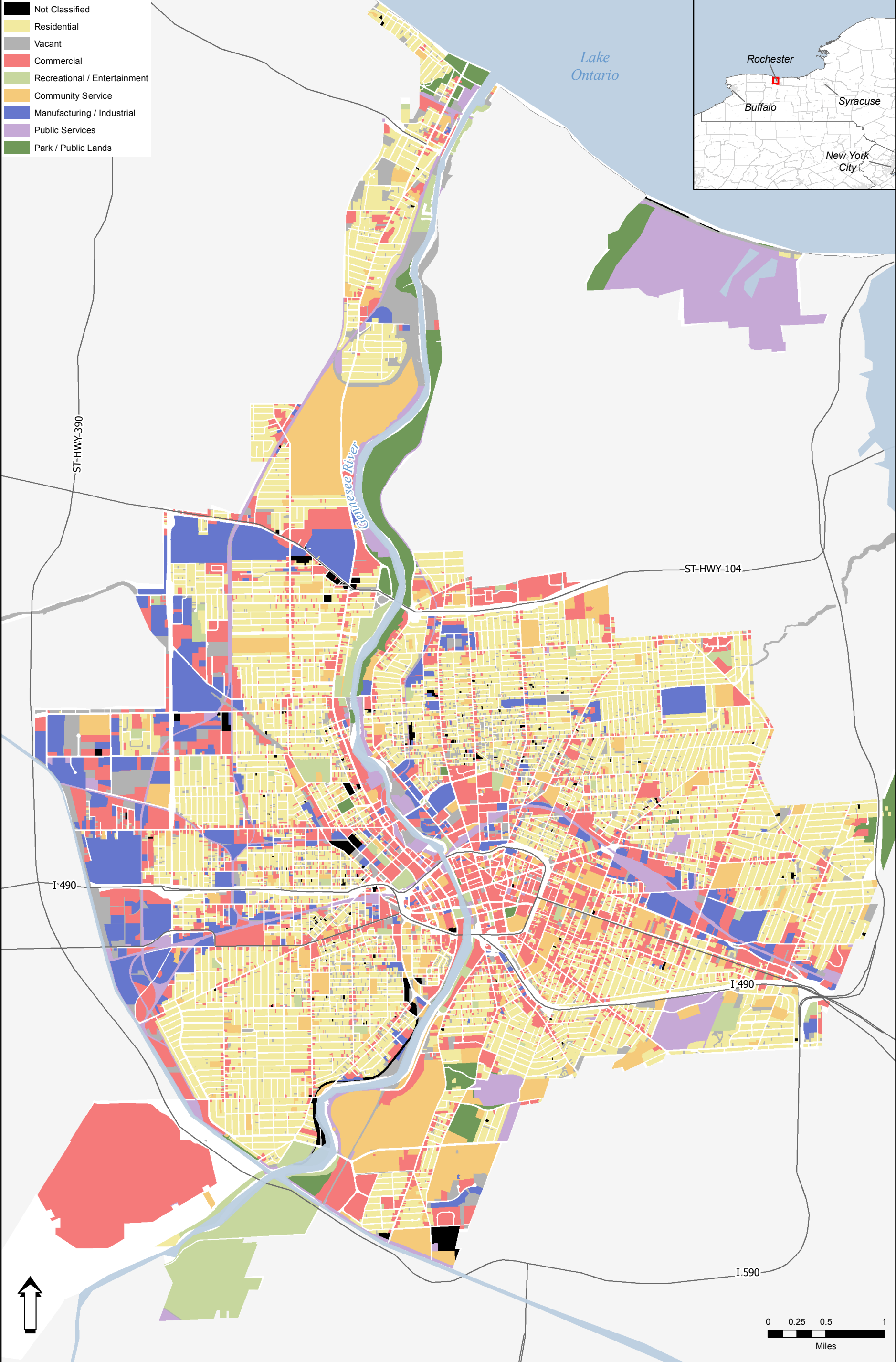
Rochester is divided into two police sectors, with just over 700 police officers. Sixteen fire stations are located throughout the city, employing approximately 520 firefighters (City of Rochester 2004).

Schools

The Rochester City School District serves approximately 34,000 students in pre-K through grade 12 and an additional 15,000 adult students in continuing education programs. The district operates 39 elementary schools, 16 secondary schools (middle and high school), one adult/family learning center, and several alternative education programs (<http://www.rcsdk12.org/>). This does not include private schools located in the city.

4.4 Certified Lead Abatement and Evaluation Firms

There are approximately 14 certified lead-based paint evaluation firms in the Rochester area. These firms are EPA-certified and are trained to perform lead evaluations to identify and eliminate lead hazards in old structures, such as residential homes. The City of Rochester has three employees (NET inspectors) that



(Source: City of Rochester, 2005; ESRI, 2005)

Figure 4-1
Land Use within the City of Rochester

have completed the Lead Safe Work Practice training and no certified risk assessors (Kirkmire 2005). A more detailed discussion of lead abatement requirements, training, and lead-safe work practices is presented in Section 2.

4.5 Socioeconomic

4.5.1 Population

The Rochester MSA, as in many other Upstate New York metropolitan areas, is experiencing both population loss and urban sprawl. These trends have been occurring over the past several decades. In the period between the 1990 and 2000 census, there was population growth in the Rochester metropolitan statistical area (MSA); however, the population in the city itself declined (an approximately 5% decline from 1990 to 2000). Table 4-2 presents the population characteristics and trends in the city.

Table 4-2 Population and Demographics

	1990	%	2000	%
Total Population	231,636	100	219,773	100
White	141,952	61	105,391	48
Black or African American	73,102	32	82,980	38
Am. Indian/Alaska Native	1,003	-	1,269	1
Asian	3,752	2	4,693	2
Native Hawaiian or Pacific Islander	NA	-	97	-
Other	11,797	5	25,336	12
Total Population	231,636	100	219,773	100
Hispanic Origin	18,936	8	27,869	13
Non-Hispanic Origin	212,700	92	191,897	87
Total Population	231,636	100	219,773	100
Aged < 6 years old	25,588	11	20,438	9
Aged 6 years old or above	206,048	89	199,335	91

Source: U.S. Census Bureau 2005.

Note: The number of Native Hawaiian or Pacific Islanders in 1990 is combined with and accounted for under the "Asian" category.

There was a significant drop in the percent of white residents in the city from 1990 to 2000. This suggests that a significant portion of the 5% population loss from 1990 to 2000 was the white population moving either to the surrounding suburbs or out of the area. The percentage of Black or African American residents experienced a moderate increase of about 6% from 1990 to 2000. The residents of the city represent 21% of the population of the entire Rochester MSA; however, it accounts for 71% of the total minority population residing in the MSA. Conversely, the population of whites residing in the city comprises 12% of the entire white population residing in the MSA (City of Rochester 2005b).

There also were slight shifts in the proportion of Hispanic and non-Hispanic populations and children under the age of 6. The percent of the total population that is

4. Existing Environment

Hispanic in the City of Rochester increased from 1990 to 2000 by 5%. In addition, the percent of children under the age of 6 decreased slightly, by 2% (or about 5,000 children).

4.5.2 Economy, Employment, Poverty

Economy

Rochester's economy has been manufacturing-based since the early twentieth century. The foundation of the economy included the manufacture and distribution of photographic, optical, and precision equipment by the Eastman Kodak Company, Xerox Corporation, and Bausch and Lomb. The presence of these and other firms have earned Rochester the title of "The World's Image Center." (City of Rochester 2005b).

Employment

The major sectors of employment, in the city are listed in Table 4-3.

Table 4-3 Resident Employment for the City of Rochester

Industry	Employment
Education/Health/Social Services	25,618
Manufacturing	16,751
Retail Trade	9,719
Professional/Management/Scientific	8,505
Arts/Entertainment/Accommodation/Food	7,866
Construction	5,830
Finance/Insurance/Real Estate	3,743
Transportation/Warehousing/Utilities	3,411
Information	3,265
Public Administration (Government)	2,547
Wholesale Trade	2,495

Source: City of Rochester 2005b.

Shifting economic trends resulting from the globalized marketplace and access to inexpensive foreign labor has directly impacted the manufacturing sector within the city. Over the past several decades, all of the major employers in Rochester (Kodak, Xerox, and Bausch and Lomb) have significantly reduced their labor force. Employment throughout the manufacturing sector is declining in Rochester and throughout the Rochester MSA.

This job loss, specifically in the manufacturing sector, has resulted in an increasing unemployment rate in recent years. Job losses in the industrial sector of the city have resulted in an unemployment rate that typically exceeds that of Monroe County and New York State. Table 4-4 presents annual unemployment statistics from 2001 to 2004 for Rochester, Monroe County, and New York State.

Table 4-4 Unemployment Statistics

	City of Rochester	Monroe County	New York State
2001	7.5	5.2	4.9
2002	9.8	5.6	6.2
2003	9.9	5.6	6.4
2004	7.4	5.4	5.8

Source: City of Rochester 2004.

Poverty

According to the 2000 Census, 54,713 individuals (25%) were living below the poverty level in the City of Rochester (U.S. Census Bureau 2005). Disparities exist between the rate of poverty experienced by different racial groups throughout Rochester. In 2000, Blacks or African Americans comprised nearly 40% of the City's entire population, while the rate of poverty for individuals within this group was 34%. In 2000, white residents comprised nearly 50% of the City's population, but only 16% of the white population lived below the poverty level. Table 4-5 highlights some of the minority populations and their respective poverty level status.

Table 4-5 Individuals Living Below the Poverty Level (by race)

Population Demographic	Percent Below Poverty
Race	
White	16%
Black and African American	34%
Native Hawaiian and Other Pacific Islander	57%
American Indian and Alaska Native	32%
Asian	21%
Other	39%
Ethnicity	
Hispanic or Latino	42%

Source: U.S. Census Bureau 2005.

4.5.3 Tax Revenues

In 2003 and 2004, revenues received by the City of Rochester exceeded the City's expenses, which increased the overall net assets of the City for two consecutive years. Approximately 25% of the annual revenues in 2003 and 2004 came directly from property taxes in the City, meaning taxes on property paid by home and business owners is a large and very substantial revenue source for the City. The only source of revenue greater than that of property taxes is from "sales and other taxes." The single largest expenditure allocation by the City is to the school district, which comprises approximately 25% of the total expenditures. Table 4-6 presents details on the City of Rochester's revenues and expenditures for 2003 and 2004.

4. Existing Environment

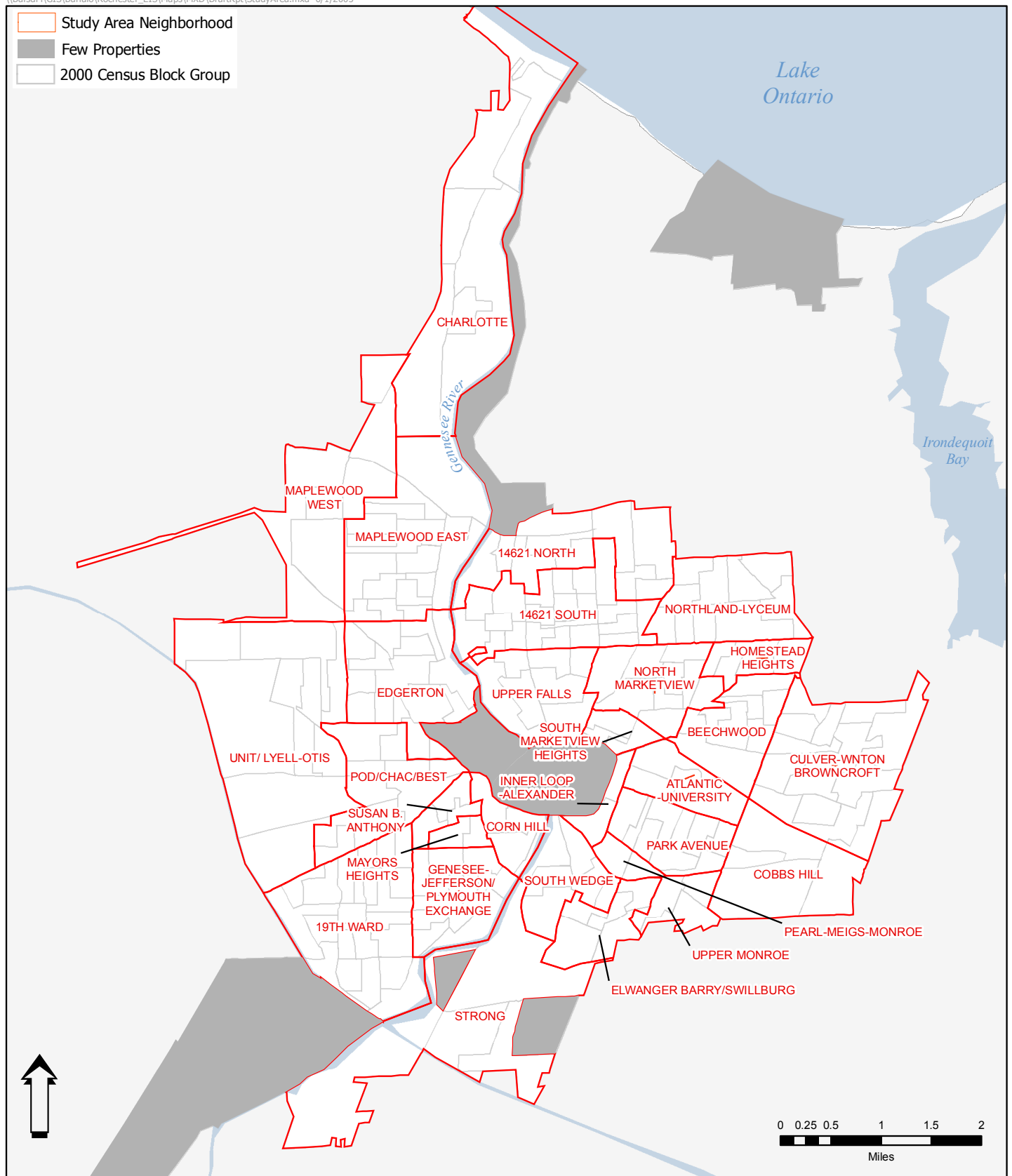
Table 4-6 City of Rochester Revenues and Expenditures (in thousands of dollars)

	2004	Percent	2003	Percent
Program Revenues				
Charges for services	110,698	21	107,392	21
Operating grants and contributions	35,116	7	44,557	9
Capital grants and contributions	24,035	5	16,221	3
General Revenues				
Property taxes	132,497	26	127,305	25
Sales and other taxes	147,308	29	144,003	28
Government aid	62,128	12	61,816	12
Other	5,251	1	5,998	1
Total Revenues	517,033	100	507,292	100
Expenses				
General Government	60,241	12	43,950	9
Police	84,091	17	76,955	16
Fire	51,688	10	49,210	10
Emergency Communications	10,523	2	9,834	2
Transportation	24,937	5	26,265	5
Environmental Services	20,376	4	19,692	4
Parks and Recreation	18,516	4	18,958	4
Library	11,148	2	11,356	2
Comm. and Econ. Development	30,039	6	43,275	9
Interest on long-term debt	3,921	1	4,162	1
Allocation to school district	126,100	25	126,100	26
Water	24,950	5	23,583	5
War memorial	3,455	1	3,426	1
Parking	6,450	1	6,821	1
Cemetery	2,285	1	2,060	-
Public market	618	-	672	-
Refuse	23,424	5	20,322	4
Port	0	-	8	-
Total Expenses	502,762	100	486,649	100
Excess of revenues over expenses	14,271	-	20,643	-
Transfers	0	-	0	-
Increase in net assets	14,271	-	20,643	-
Net assets – beginning	720,396	-	699,753	-
Net assets – ending	734,667	-	720,396	-

Source: City of Rochester 2004.

4.5.4 Neighborhood Designations

For purposes of this analysis, it was necessary to identify study area neighborhoods. For this study, the city will be described using its 29 neighborhood designations, which are presented geographically on Figure 4-2 and listed in Table 4-7. The boundaries of these 29 neighborhoods follow 2000 census block group



(Source: ESRI, 2004; CGR 2002)

Figure 4-2
Study Area Neighborhoods

4. Existing Environment

boundaries; therefore, specific census characteristics for each of the neighborhoods can be obtained and a comparative analysis conducted. It should be noted that the neighborhoods used in this GEIS are based upon the neighborhoods profiled in CGR 2002. There are minor differences from the CGR report, most likely due to the method of aggregating 1990 and 2000 census boundaries in the CGR report as opposed to using strictly 2000 boundaries, which is done in this analysis.

Table 4-7 Study Area Neighborhoods

14621 North	Maplewood East
14621 South	Maplewood West
The 19 th Ward	Mayors Heights
Atlantic-University	North Marketview Heights
Beechwood	Northland-Lyceum
Charlotte	Park Avenue
Cobbs Hill	Pearl-Meigs-Monroe
Corn Hill	POD/CHAC/BEST
Culver-Winton-Browncroft	South Marketview Heights
Edgerton	South Wedge
Ellwanger-Barry/Swillburg	Strong
Genesee-Jefferson and Plymouth-Exchange	Susan B. Anthony
	UNIT and Lyell-Otis
Homestead Heights	Upper Falls
Inner Loop-Alexander	Upper Monroe

Source: CGR 2002; U.S. Census 2005.

For a further description of all 29 study area neighborhoods in the city, refer to Appendix B.

4.6 Housing

This section provides a comprehensive description of the housing market in the city of Rochester, including information on the age and general condition of the housing stock.

The housing stock in the City of Rochester can be described as primarily a mix of single- and two-family homes with a more limited number of larger, multi-unit complexes.

4.6.1 General Housing Data

Table 4-8 presents key housing characteristics for the City of Rochester (U.S. Census 2005). While this data does not summarize the city's housing stock in its entirety, it provides the framework from which housing data can be examined in more detail with respect to those units and populations potentially most affected by the proposed ordinance alternatives. As the table illustrates, the overall population of the city is decreasing, as is the overall number of housing units in the city. Also of note from these statistics is that the overall housing occupancy rate

4. Existing Environment

is decreasing (-3.6%), while experiencing a very modest 1.5% increase in the number of renter households between 1990 and 2000.

Table 4-8 Housing Stock Data for the City of Rochester

	1990	Percent	2000	Percent	Percent Change
Population	231,636	NA	219,773	NA	(5)
Number of Housing Units	101,154	NA	99,820	NA	(1)
Owner occupied	41,188	44	35,777	40	(13)
Renter occupied	52,419	56	53,226	60	2
Total occupancy	93,607	NA	89,003	NA	(5)
Vacant Units	7,547	NA	10,817	NA	43
Occupancy Rate	92.5	NA	89.2	NA	(4)
Vacancy Rate	7.5	NA	10.8	NA	44
Year Structure Built					
Since 1980	3,051	3	4,458	4	46
1970 to 1979	8,560	8	7,892	8	(8)
1960 to 1969	7,583	7	8,349	8	10
1950 to 1959	10,245	10	11,813	12	15
Pre-1950	71,715	71	67,308	67	(6)

Source: U.S. Census 2005.

Key: NA = Not available.

Note: On the table, the numbers for structures built from 1950 to 1959 and 1960 to 1969 increase slightly between the 1990 and 2000 Census. This is probably due to slight changes in what the U.S. Census Bureau considered the City of Rochester boundaries to be between the two decades.

Table 4-8 also indicates that the housing stock in the city is relatively old, with 67% having been built prior to 1950. With respect to this GEIS, it is important to note those structures built prior to 1978, the first year in which the use of lead-based paint in homes was no longer permitted. Due to a lack of more detailed annual data, the pre-1980 figure will be used to estimate the number of homes potentially containing lead. The number of pre-1980 housing units is 95,362 or approximately 96% of all units.

4.6.2 Property Values

According to the City of Rochester's *Consolidated Community Development Plan*, Rochester's housing market has softened in recent years. Multiple factors are responsible for this condition. In part, the population of the city has decreased due to a shrinking employment market. In addition, an increase in the construction of residential units in suburban areas outside the city limits has drawn residents out of the city, as home buyers are often drawn to neighborhoods that offer what is perceived as potentially better schools and public safety. This development is in line with national trends (City of Rochester 2005b).

4. Existing Environment

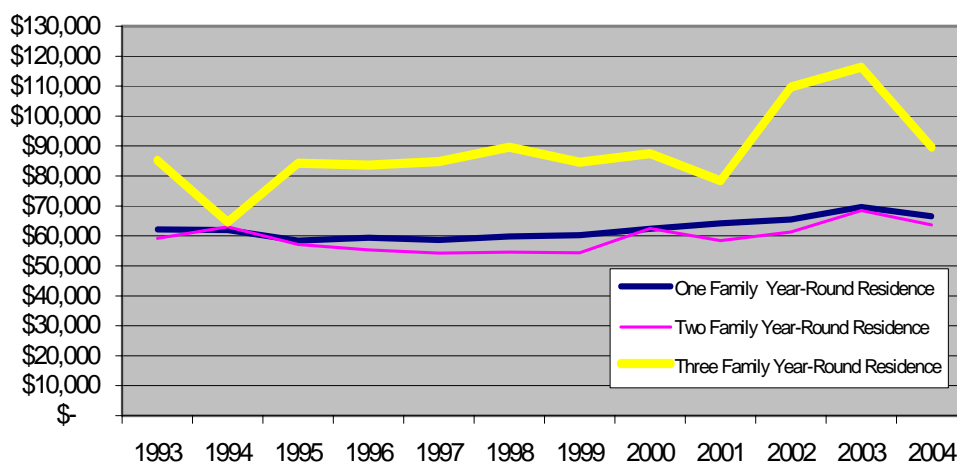
Property values in Rochester have been generally declining over the past decade. Statistics show that the overall assessed value of taxable property in the city has decreased by over \$850 million since 1995. As can be seen in Table 4-9, there has been a decline in property values every year since 1995.

**Table 4-9 Assessed Value of Taxable Property
(in thousands of dollars)**

Year	Assessed Value	Percent Change
1995	\$5,590,260	
1996	\$5,500,840	(2)
1997	\$5,202,935	(5)
1998	\$5,120,347	(2)
1999	\$5,072,605	(<1)
2000	\$5,044,246	(<1)
2001	\$4,802,407	(5)
2002	\$4,789,488	(<1)
2003	\$4,779,118	(<1)
2004	\$4,735,334	(<1)

Source: City of Rochester 2004.

The assessed value is not always an accurate representation of the actual market value, since this information is often outdated. Historic data for home sales in the City of Rochester for the years 1993 to 2004 was obtained from the New York State Office of Real Property Services (see Figure 4-3).



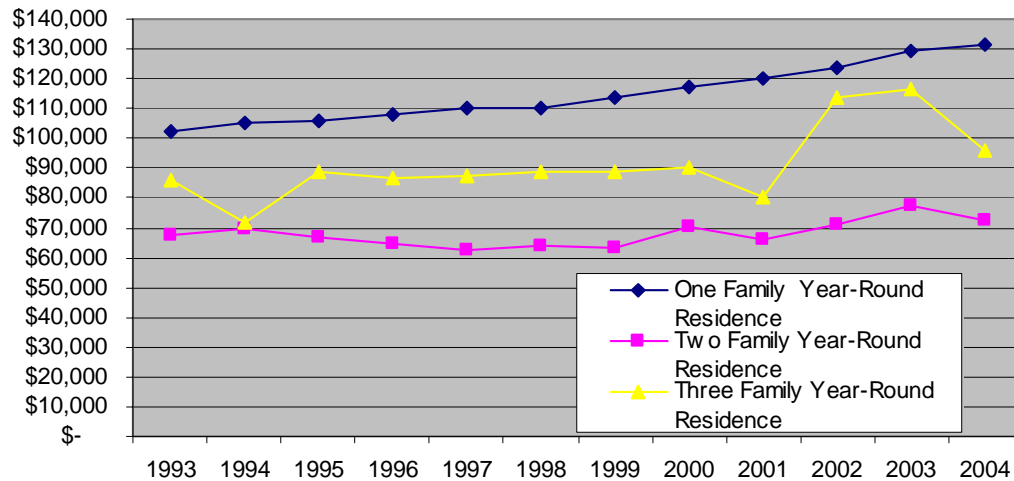
Source: NYS Office of Real Property Services 2005

Figure 4-3 Average Sales Prices for One-, Two-, and Three-family Year-round Residences in the City of Rochester

Home sale prices for one- and two-unit properties have not changed significantly since 1993. In other areas of the state and country, there has been a substantial

4. Existing Environment

increase in the value of the housing market, but Rochester did not experience this growth in value. From 2000 to 2004 the average sale price for a single-family home in the city increased by 6.5%, while in Monroe County as a whole the increase was 12% (see Figure 4-4 for Monroe County data). This indicates that the housing market in the City of Rochester is stagnant compared with the surrounding areas and national trends.



Source: NYS Office of Real Property Services

Figure 4-4 Average Sales Prices for One-, Two-, and Three-family Year-round Residences in Monroe County

As with many U.S. cities, Rochester is experiencing a level of urban sprawl, where many middle and upper income families are moving out of the cities to the first- and second-tier suburbs. This leaves behind those less affluent families that are unable to afford to move, or own their own homes (see Section 4.5.2 - Economy, Employment, and Poverty). Due in part to the migration of people and wealth to the suburbs, many neighborhoods in the city have experienced declining property values.

4.6.2.1 Tax Foreclosure

Another indicator of a depressed housing market is the number of tax foreclosures, which indicates that the property owner is either unable or unwilling to pay the taxes on the property. Nonpayment of taxes often means that there is marginal value in the home and the property owner would rather lose the property than pay the required taxes. The City begins tax foreclosure action on properties after taxes are past due for one year. The City provides tax installment agreements of up to 5 years to taxpayers demonstrating financial hardship if the property complies with City codes (City of Rochester 2004). Table 4-10 shows the number of properties foreclosed on for tax purposes in the city and those that were returned to the tax roll after successful negotiation and sale. Overall, the number of foreclosures increased significantly from 1995 to 2004 (by 227, or over 300%).

4. Existing Environment

Table 4-10 Tax Foreclosure and Disposition Statistics for Rochester, New York

Year	Number of Foreclosures	No. of Properties Sold at Auction or Negotiated Sale	Assessed Value of Properties Sold and Returned to Tax Rolls
1995	75	143	\$690,785
1996	118	159	\$356,623
1997	130	250	\$702,500
1998	223	112	\$365,106
1999	228	125	\$365,000
2000	227	130	\$360,000
2001	313	185	\$518,000
2002	294	209	\$585,200
2003	324	482	\$1,266,000
2004	302	376	\$948,000

Source: City of Rochester 2004.

4.6.2.2 Mortgage Foreclosure

Another indicator of a depressed housing market is the number of mortgage foreclosures, which indicates that the property owner is either unable or unwilling to pay the mortgage on the property. Nonpayment of mortgage often means that there is marginal value in the home and the property owner would rather lose the property than make payments on the mortgage. Table 4-11 shows the number of properties foreclosed on for non payment of mortgage purposes in the city and the estimated gross and net loss to the mortgage grantor. Overall, the number of foreclosures increased significantly from 1990 to 1999 (by 639, or over 277%), resulting in an estimated total loss of \$131 million over the same time period.

Table 4-11 Residential Mortgage Foreclosure for Rochester, New York

Year	Number of Foreclosures	Estimated Total Judgment Amount (Gross Loss)	Estimated Total Loss (Net Loss)
1990	361	\$20,470,866	\$7,215,307
1991	540	\$30,621,240	\$10,792,980
1992	611	\$34,647,366	\$12,212,057
1993	662	\$37,539,372	\$13,231,394
1994	588	\$33,343,128	\$11,752,356
1995	539	\$30,564,534	\$10,772,993
1996	640	\$36,291,840	\$12,791,680
1997	716	\$40,601,496	\$14,310,692
1998	896	\$50,808,576	\$17,908,352
1999	1000	\$56,706,000	\$19,987,000

Source: The Housing Council 2000.

4.6.3 Housing Market Characteristics and Affordability

The emigration from the city to the suburbs in recent years, as discussed in Section 4.6.2, Property Values, has resulted in the housing units in the city now being occupied mainly by renters rather than owners. Home ownership initiatives in Rochester, geared at increasing the home ownership rate in the city, suggest owning a home may, for many, be more affordable than renting (City of Rochester 2005b).

4.6.3.1 Rental Market

The rental housing market in Rochester represents a significant portion of the total housing stock. Throughout the city, there are many different categories of renters. The following section examines and identifies the number of renters that experience what is referred to as a “cost burden” or “severe cost burden” in meeting their monthly housing payments, whether that represents rent or mortgage.

Table 4-12 presents a general breakdown of all the city’s renters and homeowners and the level of burden based upon their household income level. The cost of housing can be expressed as a portion of a household’s total gross income spent on housing costs. For renters, this includes rent plus utilities; for homeowners, it includes mortgage payments, taxes, insurance, and utilities. “Cost burden” is defined as more than 30% of total gross income spent on housing costs, and “severe cost burden” is defined as more than 50% of total gross income spent on housing costs (City of Rochester 2005b).

Cost burden is a problem for 80.5% of the 22,676 “extremely low income” households, regardless of whether they are renters or homeowners; however, it should be noted that there are many more renters (19,297), than owners (3,379) at this income level. While the cost burden is not quite as severe for “very low income” and “low income” households, it is still prevalent for all types of renters across the city (almost 50% experiencing a cost burden, and almost 30% experiencing a severe cost burden).

4.6.3.2 Description of Housing Affordability

A cursory glance at the housing and income data for the City of Rochester would present a place with a median home value of \$61,300 and a median family income of \$27,123. Putting these two figures in perspective might immediately indicate that the average City family can afford to buy a home ($\$27,123 \times 2.5 = \$67,808$), going by the generally accepted mortgage affordability ratio of 2.5 times income. It indicates that the average family would qualify for a mortgage of up to \$67,808 in order to buy a primary residence.

On the rental side, the United States Department of Housing and Urban Development’s 2005 published fair market rents range from \$511 for a studio, to \$878 for a four-bedroom housing unit. Again, taking Rochester’s median family income of \$27,123 and without making adjustments for taxes, an average family in Rochester can reasonably afford to pay about \$678 (30% of median family income) on

4. Existing Environment

housing. However, when compared with HUD-published fair market rents for the City of Rochester, this indicates that the average City family must spend well above 30% of its income on housing for units with two or more bedrooms.

Table 4-12 Cost Burden and Severe Cost Burden by Tenure and Income Level

Cost Burdened Households (HHs)		Renters	%	Owners	%	Total	%
0 to 30% MFI	HHs	19,297	36.3	3,379	9.5	22,676	25.5
Cost Burden	Burden >30%	15,650	81.1	2,595	76.8	18,245	80.5
Severe Cost Burden	Burden >50%	13,103	67.9	2,071	61.3	15,174	66.9
30 to 50% MFI	HHs	10,684	20.1	4,107	11.5	14,791	16.6
Cost Burden	Burden >30%	7,126	66.7	2,579	62.8	9,705	65.6
Severe Cost Burden	Burden >50%	1,741	16.3	1,228	29.9	2,969	20.1
50 to 80% MFI	HHs	10,922	20.5	7,080	19.8	18,002	20.2
Cost Burden	Burden >30%	2,665	24.4	2,952	41.7	5,617	31.2
Severe Cost Burden	Burden >50%	208	1.9	538	7.6	746	4.1
Total < 80% MFI	HHs	40,903	76.9	14,566	40.8	55,469	62.4
Cost Burden	Burden >30%	25,441	62.2	8,127	55.8	33,568	60.5
Severe Cost Burden	Burden >50%	15,052	36.8	3,837	26.3	18,889	34.1
80% and > MFI	HHs	12,282	23.1	21,175	59.2	33,457	37.6
Cost Burden	Burden >30%	270	2.2	1,398	6.6	1,668	5.0
Severe Cost Burden	Burden >50%	37	0.3	85	0.4	122	0.4
Rochester Total	HHs	53,185	100.0	35,741	100.0	88,926	100.0
Cost Burden	Burden >30%	25,711	48.3	9,524	26.6	35,235	39.6
Severe Cost Burden	Burden >50%	15,089	28.4	3,922	11.0	19,011	21.4

Source: City of Rochester 2005b.

Key:

MFI = Median Family Income
 Extremely Low Income = 0 to 30% MFI
 Very Low Income = 30 to 50% MFI
 Low Income = 50 to 80% MFI

4.6.3.2.1 Assessment of Income and Housing Costs

Of the universe of 88,926 households, 35,235 (39.6%) spend more than 30% of their household income on housing costs; for renters this payment includes rent paid by the tenant plus utilities, and for owners, mortgage payment, taxes, insurance and utilities. The number of households spending more than 50% of their household income on housing costs is 19,011 (21.4%).

Of the 88,926 total households in Rochester, 26% earn less than 30% of the median family income; which approximates 22,676 households living at or below the poverty level. Amongst families living at or below the poverty level, 85% are renters, while 15% own their primary residences. Additionally, eighty percent of the households living in poverty spend 30% or more of their household income on housing costs, while 66.9% spend half or more of their household income on housing.

4.6.3.2.2 Housing Supply

Census data indicates that there are 6,990 occupied rental housing units affordable to households living at or below 30% of the median family income; with an additional 813 units vacant for rent. The data indicates that there are no owned or for sale units affordable to this income group. This supply demonstrates a very significant mismatch with the demand of 22,676 households for whom this is the only affordable housing if they were to spend no more than 30% of their household income on housing costs. This represents a ratio of 2.9 households per each affordable rental unit in the 30% of median family income group. The disparity between supply and demand at this level is staggering.

Seventeen percent (14,791) of total households earn between 30% and 50% of median family income. There are more affordable rental units available for households in this income range. Census data indicates that there are 23,997 occupied rental units in this affordability range, with an additional 3,566 vacant for rent units.

Owned or for sale units become affordable to households with incomes in the 30% to 50% of the median family income range for the area. There are 27,316 affordable ownership units in this range, and 1,316 vacant units.

The *Democrat and Chronicle* reports that for the period between January 2005 and July 2005, 1,046 sales of single family homes occurred with a median sale price of \$55,650. Taking this more recent median sale price of \$55,650 and assuming a 95% mortgage at 5.71% for 30 years, the monthly principle, interest, taxes, and insurance total approximately \$499 per month. This indicates that home ownership is more affordable than renting when compared to HUD's published fair market rents which call for \$687 rent for a two-bedroom, or \$824 for a three-bedroom unit.

4.6.3.2.3 Assisted Housing: Public Housing, Section 8, and Privately-Owned Subsidized Housing

Assisted housing is supplied through three avenues: the Section 8 rental assistance program, which could be either tenant- or project-based; public housing and privately-owned subsidized housing. There exist approximately 9,582 such housing units in the City of Rochester. Section 8 and public housing supply the highest number of affordable housing units for very low income households (incomes less than 50% of median family income).

The Rochester Housing Authority (RHA) administers the Section 8 program and reports that they currently assist 6,667 housing units, most of which are tenant-based. They report that in 2005, almost \$40 million will be provided in rental assistance to the greater Rochester community.

As noted in Table 4-13, RHA owns and manages a stock of 2,342 public housing units; 1,318 (56.3%) are available to adults aged 50 and older, and to persons with

4. Existing Environment

disabilities; and 1,024 (43.7%) are available to families. These units have a low vacancy rate (2.5%) and RHA maintains a waiting list of 2,684 households. Additionally, RHA provides assistance to another 573 units through other programs including shelter plus care.

Table 4-13 Assisted Housing Program Inventory

Category	# Units
Public Housing Units	
Families	1,024
Elderly/Disabled	1,318
Assisted Housing Units	
Tenant- and Project-based vouchers	6,667
Other Programs	
Shelter plus care, moderate rehab, etc.	573
Total	9,582

There are approximately 8,898 privately-owned subsidized housing units within the City. Of this total, 5,320 (60%) are family units, while the remaining 3,583 (40%) are designated elderly and disabled units.

It cannot be assumed that there is an equitable match of needy households occupying the supply of assisted affordable housing. As an example, extremely low income households total 22,676, while the assisted housing supply in its entirety totals 10,150 units, resulting in a demand/supply shortfall for at least 12,521 households. Of the extremely low income households, 19,297 (85%) are renters, including 8,534 households having at least two related persons. Taken together with the fact that more than 80% of the renter cohort (15,650) in this income group (0 to 30% MFI) spend more than 30% of their income for housing, it can be surmised that most extremely low income households reside in unassisted, privately owned housing.

4.7 Human Health

Childhood lead poisoning is a major health concern, potentially affecting thousands of children living in pre-1978 homes in the city of Rochester. According to the New York State Department of Health, dusting, flaking and peeling residential lead paint is by far the most significant source of lead exposure to children. Even in well-maintained housing units, some deterioration of paint occurs, and as the paint deteriorates, it is converted into dust-sized particles (NYS DOH 2005). Children that ingest these dust particles are at risk of becoming poisoned, which, in turn, causes irreversible harm to the child's nervous system (City of Rochester 2005b). The City of Rochester and the MCDPH are both involved with the lead poisoning prevention issue and offer programs and initiatives to work toward preventing further poisonings and protecting children.

4.7.1 Lead Exposure Pathways

Lead is a highly toxic substance, and research has shown that children who are exposed to lead have a significantly higher risk of developing potentially long-term cognitive, physiological, and behavioral problems. Studies suggest that children 0 to 6 years of age (zero to 72 months) are most susceptible to both lead poisoning and the effects of lead poisoning. First, it is the period of the infant's life (especially between the ages of 1 and 2) where they are often on the floor, crawling, teething, putting items and their hands in their mouth, all of which are potential pathways of lead contamination. Second, it is during this period that children experience a "growth explosion" in the nervous tissue in the brain. The combination of the high susceptibility and the higher likelihood of exposure creates a serious problem that has been documented in numerous medical studies and journals (www.atsdr.cdc.gov/tfacts13.html). According to the National Safety Council, even very low levels of exposure can result in reduced IQ, learning disabilities, attention deficit disorders, behavioral problems, stunted growth, impaired hearing, and kidney damage. At high levels of exposure, a child may become mentally retarded, fall into a coma, and even die from lead poisoning. Lead poisoning has also been associated with juvenile delinquency and criminal behavior (<http://www.nsc.org/library/facts/lead.htm>).

It has also been found that exposure to lead is also extremely dangerous for unborn children. Unborn children can be exposed to lead through their mothers. Harmful effects include premature births, lower birth weights, decreased mental ability in the infant, learning difficulties, and reduced growth in young children (www.atsdr.cdc.gov/tfacts13.html).

During the past two decades, sources of lead and children's total exposure to lead have been reduced due to the phase-out of leaded gasoline, lead-based paint, and lead from food and beverage cans, drinking water, and other sources. However, children continue to be exposed to lead poisoning, and current research shows that exposure to even lower levels of lead is still harmful to young children (CGR 2002).

Public policies for dealing with the issue of lead poisoning in children are undergoing a shift, from taking action after a child has been exposed to lead (reactive) toward taking primary prevention actions (proactive). This encompasses multiple initiatives, including the general reduction of lead levels in the environment, the maintenance of existing exposure points to prevent incidents of lead poisoning, and general education of families and the community.

4.7.2 Distribution of Documented Lead Poisoning Cases

As discussed in Section 2, for over thirty years, the MCDPH has operated the Childhood Lead Poisoning Prevention Program to identify, provide care for, and track the progress of children exhibiting elevated blood lead levels.

4. Existing Environment

Traditionally, the medical community has been concerned about children whose tests indicated blood lead levels of 20 µg/dL or higher. In October 2003, the MCDPH changed their criteria whereby they enroll children into their program that have tested between 15 and 19 µg/dL twice within a year, more than three months apart (MCDPH 2005). As discussed previously, scientific research has shown that lower and lower blood lead levels are harmful, and current research indicates that blood lead levels as low as 10 µg/dL can adversely affect a child's health and development (CDC 2005), and further changes in program protocols are possible.

Information on properties that the MCDPH investigated between 1993 and 2004 due to reported/ identified lead hazards was obtained from the MCDPH. A table of the MCDPH 's screening data is in Appendix D. The data for 2004 was analyzed and subsequently mapped (see Figure 4-5). Figure 4-6 is not meant to present a comprehensive view of all cases of lead poisoning or high-risk properties; rather, it provides a general view of where lead problems have been reported and tracked in the city and any concentrations or areas of concern that may exist. From this assessment, areas that appear to have higher numbers of lead investigations by the MCDPH include Beechwood, North Marketview Heights, South Marketview Heights, 14621 South, Edgerton, 19th Ward, Genesee-Jefferson and Plymouth-Exchange, and POD/CHAC/BEST.

For this assessment, the MCDPH also provided their 2004 lead screening and testing statistics which include information on age, blood lead level results, and primary residence at the time of the test, for children under the age of 6. The children that were found to have blood lead levels above 10 µg/dL were then selected out of the data set received and were considered "at-risk" by MCDPH. Based on address records, the residences of children under 6 years old who exhibited elevated blood lead levels in 2004 were then aggregated by census block group and a corresponding map created (see Figure 4-6). Some of the study area neighborhoods where a high number of children who have elevated blood lead levels lived include North Marketview Heights, Edgerton, Beechwood, 14621 North, and 14621 South.

4.8 Historic and Architectural Resources

The City of Rochester has compiled a comprehensive Historic Resource Survey that includes properties individually listed on or declared eligible for the State and National Registers of Historic Places or which are contributing properties in a national or local historic district. Such properties are defined as "Designated Buildings of Historic Value" by the City's Zoning Ordinance (Chapter 120 of the Municipal Code). A copy of the Historic Resources Survey is on file with the City Clerk.

The City has formally designated properties as landmarks and Preservation Districts and established regulations and procedures which ensure their character and integrity by controlling changes to such properties.

Rochester has eight preservation districts, encompassing just over 1,000 properties. The districts were created by the City government to protect their historic and/or architectural character. The eight districts are:

1. East Avenue
2. Mount Hope/Highland
3. Grove Place
4. Brown's Race
5. Corn Hill/Third Ward
6. Susan B. Anthony
7. Beach Avenue
8. South Avenue/Gregory Street

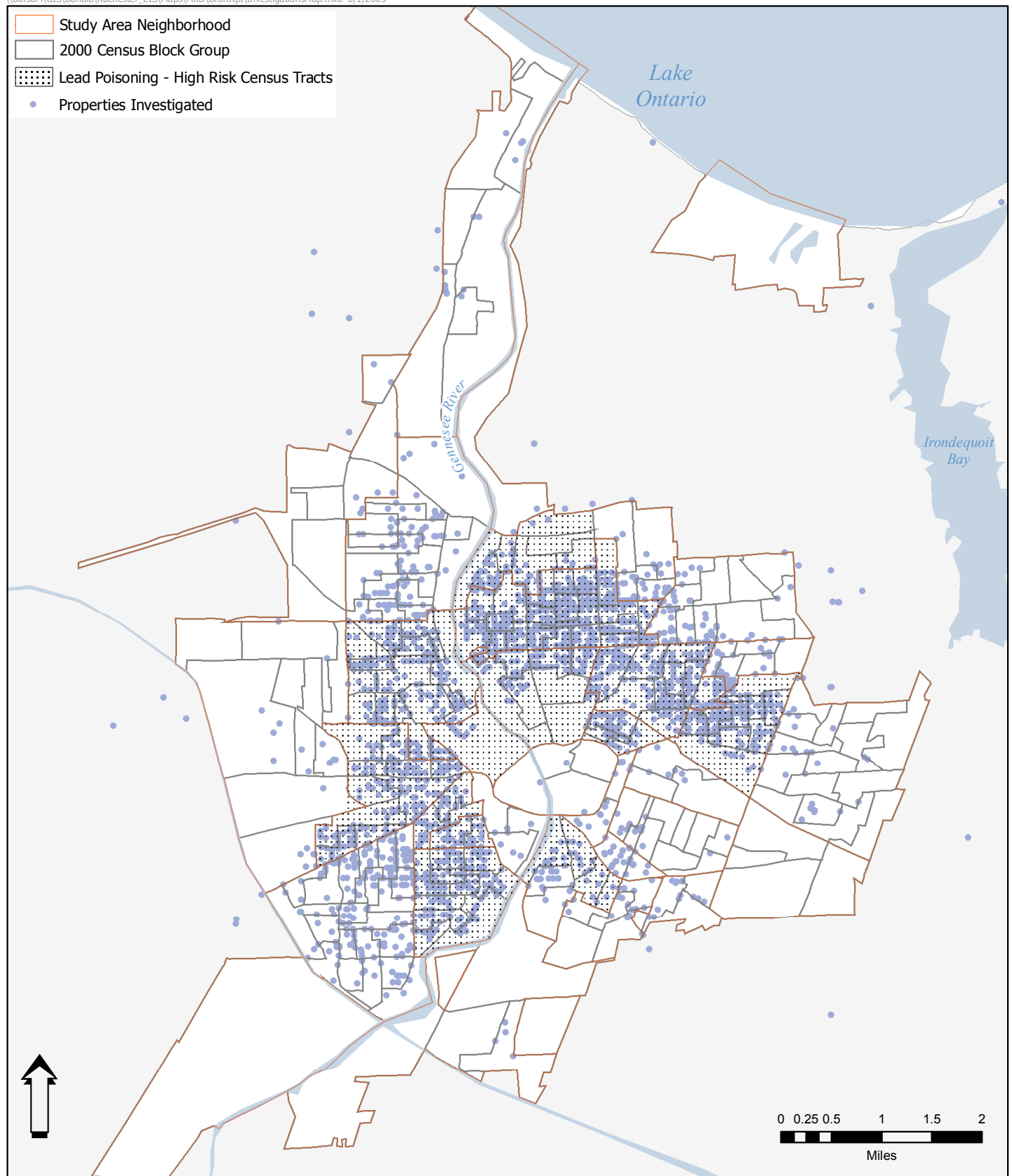
Along with its City-designated landmarks and preservation districts, Rochester has over 65 individual properties listed in the National and State Registers of Historic Places. The majority of these properties (45) are located within the Center City and most were listed as part of the Inner Loop Multiple Resource Area nomination in the mid-1980s. The National and State Registers also recognize 13 historic districts in Rochester, with seven located within the City Center. National Register districts which include significant numbers of residential properties include: Browncroft, East Avenue, Grove Place, Madison Square (Susan B. Anthony), Mt. Hope/Highland, Maplewood, and Third Ward (Corn Hill).

4.9 Air Quality

According to the New York State Department of Environmental Conservation (NYSDEC) Region 8 Air Quality Index (AQI), Rochester's air quality is rated as "Good." The AQI takes into account several criteria, including carbon monoxide (CO) and sulfur dioxide (SO₂).

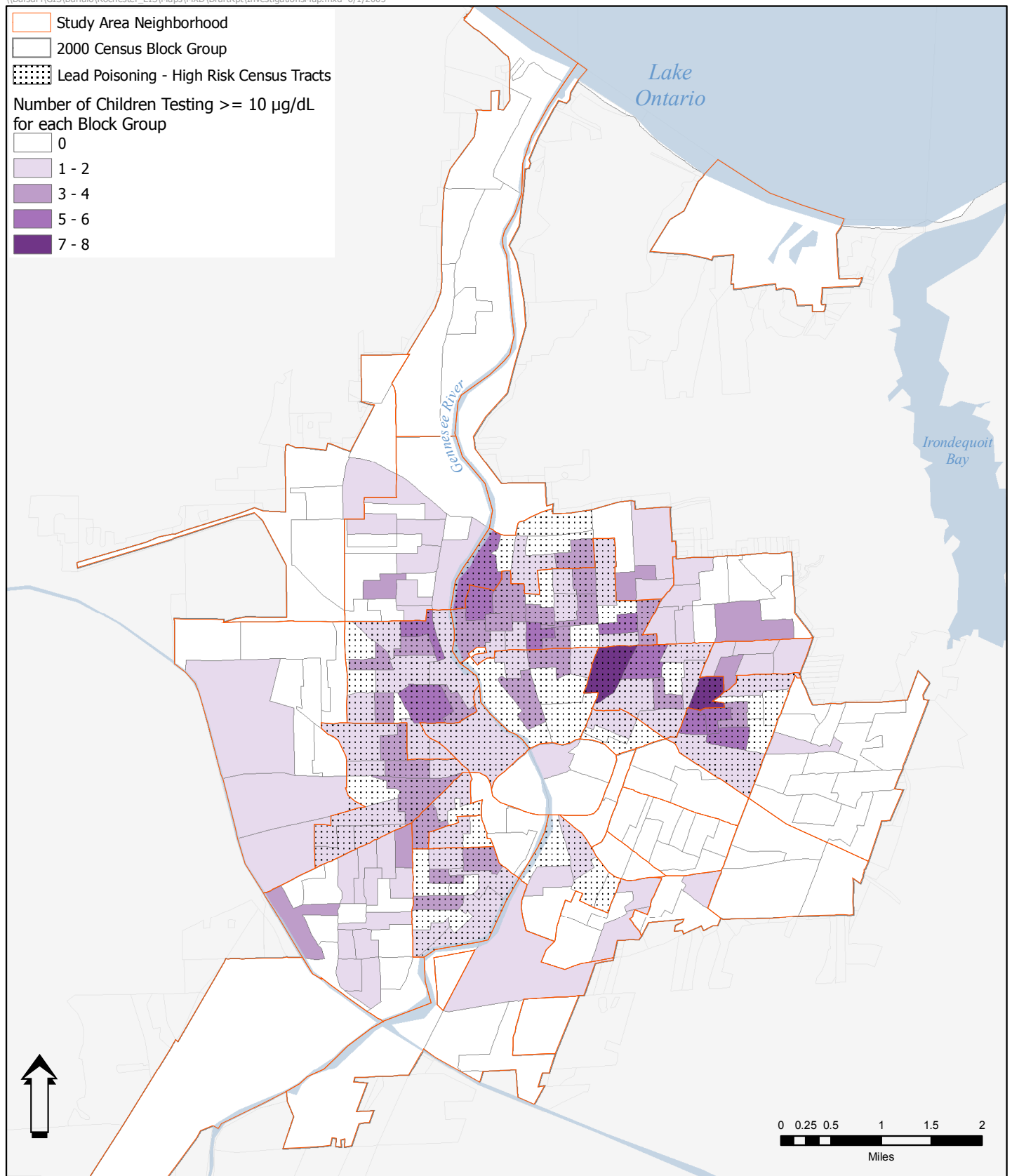
Rochester lies in an area that is designated as in attainment for all criteria pollutants (oxides of nitrogen [NO_x], CO, SO₂, lead, and inhalable particulate matter) except ozone. An attainment area is one in which ambient concentrations meet national ambient air quality standards (NAAQS). Except for ozone, no violations of state or federal air quality standards have been recorded at the NYSDEC monitoring sites located in Rochester.

Lead levels in the air have not been monitored in the Rochester area for many years since the ambient background levels were found to be negligible after the switch to unleaded gasoline. The closest NYSDEC monitoring station that monitors lead levels is in Niagara Falls, New York (approximately 85 miles to the west), where the average level is approximately 0.02 µg/dL. This level is about 1% of the established level not to be exceeded (1.5 µg/dL) and is thus considered negligible in terms of hazard.



(Source: Monroe County Department of Public Health, 2005;
City of Rochester, Lead Hazard Reduction Program, 2005))

Figure 4-5
Properties where lead hazards were identified as a result of
an Elevated Blood Lead Investigation - 1993-2004



(Source: Monroe County Department of Public Health, 2005;
 City of Rochester, Lead Hazard Reduction Program, 2005)

Figure 4-6
 Children Exhibiting Elevated Blood Levels $\geq 10 \mu\text{g/dL}$ in 2004

5

Impact Analysis

Section 5 outlines the potential impacts by resource area for each of the four proposed alternatives outlined in Section 3. Each alternative is analyzed individually, however, in some cases, due to the similarities between impacts, there are instances where an impact section will refer to a previously presented statement.

5.1 Methodology

In order to analyze the potential impacts associated with the four proposed alternative ordinances, several approaches were utilized depending on the resources area being examined. For economic and housing impacts, a methodology was developed and assumptions were outlined based upon the data and information available prior to conducting the analysis. This methodology is presented in Appendix C.

For the human health impacts, the number of households, and more specifically, children potentially protected from lead exposure was the measurement between each of the four proposed alternatives. This was determined by a topic-by-topic analysis of items outlined in each ordinance, and how the proposed ordinance either helped or hindered the ability to identify, remediate/abate, and track lead hazards in homes.

5.2 Land Use

Land use in the City of Rochester is densely developed with a characteristic range of urban-type land uses, with the predominant use in the city being residential. Implementation of any of the ordinances is not expected to significantly change or alter land use patterns in the City of Rochester. Residential uses will continue to be the predominant land use in the City.

The proposed action would be applicable to all residential structures City-wide that meet the specific criteria established in the final alternative ordinance that is ultimately adopted. While there may be substantive obligations placed on property owners that own residential property in the City of Rochester as a result of the proposed alternatives that are being considered, these obligations (i.e. lead hazard control activities) will be applied to the entire universe of land in the City and is not anticipated to have a substantive impact to land use in the City.

There is a chance under some or all of the alternatives proposed that there will be some residential housing units that will be abandoned as a result of the implementation of an ordinance. This is discussed in more detail in Section 5.6 – Housing. It is noted that the risk of mass abandonment occurring will be minimal, and it is impossible to predict exactly how many homes will be abandoned in given areas.

None of the alternative ordinances proposes amending or modifying current zoning regulations.

There would be no significant impacts to land use in the City of Rochester under the No Action Alternative.

5.3 Community Facilities and Resources

Community Facilities

There would be no significant adverse affects to community facilities and resources resulting from the implementation of any of the proposed alternatives. None of the proposed alternatives would eliminate or displace any existing or planned future facility; in addition, there are no anticipated, indirect effects of the proposed alternatives because no population will be added to the area as a direct result of the proposed activities. The basic ratio of current residents/population to the existing community facilities and resources will not be impacted by any of the proposed alternatives.

Schools

There will be no anticipated impact on schools with respect to the number of students or stressing the current capacity of schools in the City of Rochester. There is not a significant change in the school population anticipated under any of the alternatives, nor are there any anticipated impacts to the physical schools in the City.

Delivery of Municipal Services to the Community

Proposed alternative ordinances will have varying degree of impacts on the delivery of municipal services, particularly relating to costs and technical ability to implement and administer the ordinance provisions. Ordinances that require the City of Rochester to fully fund and administer this initiative will result in increased costs that may affect staffing and/or the ability to administer other activities.

5.4 Certified Lead Evaluation Firms

In order to calculate the potential change in demand for lead-based paint evaluation firms, assumptions on the number of inspections that could be performed must be made. It was assumed that the following characteristics of lead-based paint evaluation firms were reasonable based upon knowledge of firms in the area:

5. Impact Analysis

1. There are 14 certified lead-based paint evaluation firms in the Rochester area (as noted in Section 4.4).
2. There is an average of three workers employed at each of these firms.
3. The workers can perform one inspection (unit) per day (including paperwork, setting appointment, sampling documentation, etc.).
4. The employees work 5 days a week, 48 weeks per year.

Based upon these assumptions, it was estimated that the current base of evaluation firms can perform 10,080 unit inspections per year (*14 firms * 3 inspectors * 5 days/week * 48 weeks per year*). This constitutes the total supply or capabilities of lead-based paint evaluations.

The total number of evaluations/inspections that would be performed under each alternative was then estimated in order to determine if the 14 certified lead based paint evaluation firms have adequate capacity to meet the potential demand for evaluations. Census data was utilized to determine the number of housing units that would be evaluated on an annual basis.

Under Alternative 1 certified lead evaluation firms would be engaged based on a targeting approach which relies on indicators recognized in scientific literature and by public health officials for identifying the housing most likely to contain lead hazards. Using the targeting approach the City can potentially direct efforts to reach the most at risk housing units. A breakdown of highest risk units are identified in HUD's Comprehensive Housing Affordability Strategy "cross-tab" data (see Table 5-1).

The targeting approach used for Alternative 1's roll-out would utilize the available certified firms to inspect the most at-risk homes in the quickest manner during the first year (see notes in Table 5-2). A five-year time frame is used to analyze meeting the goal of lead safe housing by the year 2010. It is assumed that Alternative 1's initial rollout will be a more aggressive schedule of inspections than an even distribution over the five years. Thus, it is assumed that 50% of the total housing units will be inspected in years one and two, with the balance being accounted for in the following three years, Table 5-2 depicts the potential change in demand for lead-based paint evaluations. According to the HUD Comprehensive Housing Affordability Strategy (CHAS) "cross-tab" data, the total owner-occupied, pre-1960 homes in the City of Rochester was 32,230 in 2000. Of these, 5,095 units were built pre-1960 and have children 6 and under, and 1,005 units were built pre-1960, had children 6 and under and were households below 50% of the Household Adjusted Median Family Income (HAMFI).

5. Impact Analysis

Table 5-1 Rental Units at Highest Risk in the City of Rochester

	1949 or Earlier	1950-1959	1960-1979	Totals Pre-1980
Households with Children <= 6 and Income <= 30% of HAMFI	2,895	745	1,285	4,925
Other Households	7,405	1,495	4,555	13,455
Households with Children <= 6 and Income 30%-50% of HAMFI	1,535	315	650	2,500
Other Households	4,515	910	2,190	7,615
Households with Children <= 6 and Income >50% of HAMFI	1,900	440	700	3,040
Other Households	13,250	2,200	3,670	19,120
Totals:				
Households with Children <= 6 and Income >50% of HAMFI	6,330	1,500	2,635	10,465
Other Households	25,170	4,605	10,415	40,190
Grand Totals:	31,500	6,105	13,050	50,655

Source: US HUD 2005b.

**Table 5-2 Estimated Demand for Lead-based
Paint Inspections under Alternative 1**

Year of Program	Housing Units Inspected/Evaluated
1	20,720*
2	20,720
3	13,813
4	13,813
5	13,813
Total	82,880**

* Assumes highest risk owner and renter units (11,470 units [10,465 renter plus 1,005 owner]) will be addressed during Year One of the "roll-out" of Alternative 1 (HUD CHAS DATA – Tables A14A060r and A14B060r).

** The 82,880 total housing units to be inspected includes both renter-occupied built pre-1980 and owner-occupied built pre-1960, but does not take into account those households with or without children under 6 because this is meant to be a worst-case for purposes of scenario analyzing the availability of certified evaluation firm resources.

Thus, under Alternative 1, there would be a need for an increase in the local capacity for lead-based paint evaluations in all years of the program, with approximately twice the demand in the first two years over existing supply.

Under Alternatives 2 and 3, a similar number of housing units would require inspection all rental units built pre-1980. This amount is approximately 50,659 units, based upon Census data. Since the inspection process under Alternatives 2 and 3 is based upon the renewal of the Certificate of Occupancy, it is assumed that there will be an even distribution of certificate renewals each of the initial five

years. Table 5-3 depicts what the potential demand for lead-based paint evaluations would look like under Alternatives 2 and 3.

Table 5-3 Estimated Demand for Lead-based Paint Inspections under Alternatives 2 and 3

Year of Program	Housing Units Inspected/Evaluated
1	10,132
2	10,132
3	10,132
4	10,132
5	10,132
Total	50,659

The potential demand for evaluations under Alternatives 2 and 3 are very close to what the existing capacity for lead-based paint evaluation is locally. With minimal additional hiring, the current base of firms would be adequate in handling the required increases in work under Alternatives 2 and 3.

In summation, Alternative 1 would result in a significant demand for additional lead-based paint evaluation firms and additional hiring locally to adequately address the increased needs from ordinance implementation. Alternatives 2 and 3 would fully utilize current capacity and with minor hiring would be able to accommodate the slight increase in demand.

With respect to the No Action Alternative, there would be no significant impacts to community facilities or resources, local school capacity/enrollment, or certified abatement and evaluation firms.

5.5 Socioeconomic

5.5.1 Population

There will be no significant impacts to the local population related to any of the proposed alternatives. Temporary displacement of residents during lead hazard control activities may occur under each of the alternatives, however, there should be no permanent displacement of residents or significant impacts to population numbers. Potential abandonment and related housing issues are discussed in Section 5.6, however, due to the high housing vacancy rate in the City, it is anticipated that individuals would be able to find replacement housing within the City. There would be no significant impacts to population under the No Action Alternative.

5.5.2 Economy, Employment, Poverty

5.5.2.1 Lead Inspections, Remediation, and Abatement

Under Alternative 1, there will be an increased demand for work done by certified EPA lead evaluation firms. As stated in Section 4.4, there are approximately 14

lead-based paint evaluation firms in the local Rochester area. These firms will gain more business from the implementation of Alternative 1, and there is the potential for additional growth in this business sector (see Section 5.4). However, it is believed that due to the inherent insurance and liability constraints associated with lead hazards, in addition to the time and cost required to become EPA certified, this business sector is expected to only experience limited growth during the initial time frame when it would be most needed.

Under Alternatives 2 and 3, the initial inspections do not require a certified lead inspector or lead-based paint risk assessor. This will not result in as much business to those professionals as under Alternative 1 because there will be less affected properties and they will be evenly distributed over the course of five years. Owners will be required to obtain lead paint inspections or risk assessments to rebut. In addition, for Alternatives 2 and 3, there will also be an increased demand for lead hazard control work. These alternatives will allow property owners to either perform the work themselves or use general contractors to perform the work, unless abatement work is performed and certified contractors are needed.

5.5.2.2 Laboratory Analysis

In addition to increased demand for certified lead evaluation contractors, there will also be additional work for laboratories to analyze dust and soil samples. Sampling is required for the clearance examination under all three proposed ordinances, however only under Alternative 1 is laboratory analysis required during the initial inspection process (if “deteriorated paint” is found during a visual inspection under Alternatives 2 or 3, this may also trigger a more thorough inspection, which involves laboratory testing). Local capabilities do exist for the analysis of lead contaminants, however, to what extent these laboratory resources are utilized depends on pricing and availability. Some evaluation firms may choose to send their samples outside of the local area if they can receive a cheaper price or a quicker turn-around. Alternative 1 would have the most significant impact on the number of samples and the amount of laboratory work necessary of the alternatives.

5.5.2.3 City Processing and Lead-Hazard Database

Through the proposed development of a lead-paint hazard database, and tracking of the Certificates of Lead Poisoning Prevention Code Compliance and Certificate of Occupancy records, there may potentially be the need for an additional administrative support position(s) at the City to handle this function. An initial setup cost for a customized lead hazard tracking database is expected to be \$5,000 - \$10,000 with ongoing maintenance cost less than \$20,000/year (roughly equivalent to a 20 hour per week commitment for a City of Rochester Clerk III position).

Alternatives 1 and 3 have similar proposed database and tracking information associated with them, and it is anticipated that the level of effort would be comparable for both of these proposed alternatives. When weighed against the City’s current expenses, there may be an increased need for staffing as discussed, however,

following an initial setup of a system of tracking, the level of effort for this task should be limited. Alternative 2 however does not require management of as many data sets as Alternatives 1 and 3, resulting in less of a need for resources for this task compared to Alternatives 1 and 3.

5.5.2.4 Retail Spending on Home Improvement

Another positive economic impact resulting from the implementation of an ordinance would be additional spending in the local retail market for home improvement supplies. This would range from paint and other interior control supplies to replacement windows and supplies to renovate porches, stairs and flooring. This economic impact would be directly proportional to the number of property owners performing lead remediation work. Thus, it is anticipated that Alternative 1 would have the greatest impact due to the highest number of affected properties, followed by Alternative 2, and then 3. The no action alternative would have no significant impact on retail spending for home improvement.

5.5.2.5 Property Owners and Property Management Services

Potential adverse impacts associated with Alternative 1 include the potential loss of landlord income and business for property management companies. If the implementation of Alternative 1 results in a cost too high for a landlord to remain in business, their properties will either be sold or abandoned (this will be discussed further in Section 5.6). This will negatively impact business and personal income related to property owners and people in the property management business. As discussed further in Section 5.6, estimating specific economic impacts with respect to the number of potential property sales and abandonment that would occur would be speculative, as it will be the property owner's perspective as to how they will handle the situation financially. Section 5.6 provides an analysis of the potential costs associated with ordinance implementation that would be borne by the City of Rochester, as well as potential costs to property owners associated with each alternative proposal.

Potential negative impacts under Alternative 2 include the potential loss of landlord income and business for property management companies. However, the implementation of Alternative 2 would not have as significant impact on the property owners and management business as under Alternative 1 due to the additional costs associated with the requirement to use certified lead-paint inspectors and risk assessors during the inspection process. Alternative 3 would have the least negative economic impact on property owners and management services due to most of the costs being the responsibility of the City. In addition, the most limited number of housing units would require remediation work due to the stipulation that children under six be living in the unit.

5.5.2.6 No Action Alternative

There would be no direct or measurable significant impacts to the economy, employment or income under the No Action Alternative, however, based upon studies performed on the social impacts of lead poisoning, it has been proposed that

there is a theoretical negative economic impact associated with not addressing the lead poisoning problem in children. This primarily takes the form of the following topics (Korfmacher 2003):

1. **Lost future income** – the relationship between elevated blood levels and a lowered IQ, which has been linked with reduced income earned over a person's lifetime.
2. **Health care costs** – the cost of lead poisoning treatment for severely poisoned children (including monitoring and follow on treatment of the child)
3. **Special education** – the link between childhood lead poisoning and lowered IQ, which would contribute to a child's need for special education.
4. **Criminal justice** – the potential link between lead poisoning and delinquent behavior and violent crime, which would result in a societal loss for any criminal activity to prosecute, incarcerate, etc.
5. **State cost for lead poisoning prevention** – the cost to the State of New York for subsidizing efforts to educate about, prevent, and respond to cases of childhood lead poisoning.
6. **Legal liability** – the potential cost of litigation brought forth against municipalities.

5.5.3 Tax Revenues

Under Alternative 1, 2, and 3 there is a threat of potential abandonment of properties due to the additional costs that will be incurred by property owners. As discussed in Section 5.6 – Housing, there will be various cost differences under the selected alternatives, which will correspond to differences in the likelihood of abandonment. These costs, and which entity is responsible for implementation/administration, will also impact the City's receipt and use of tax revenue.

Alternative 1 will result in the highest cost being passed on to the property owner as a result of necessary inspection requirements (using an EPA certified lead-paint inspector or risk assessor). As discussed in Section 5.6, these additional costs could potentially have the highest impact on the rate of abandonment of properties. Although not specifically quantified, it is predicted that given a 10-year horizon for recuperating one-time cost scenarios, it is anticipated that landlords would be able to recover and gain positive cash flow within the 10 years, resulting in a limited number of homes being abandoned. However, a portion of homes (most likely with problems beyond only lead-paint hazards) will be abandoned, and a direct linkage can be made between the number of properties occupied and paying taxes, and the amount of property tax revenue the City of Rochester collects. Thus, Alternative 1 could potentially result in the highest loss of property tax revenue for the City of Rochester.

With respect to Alternative 2, there will be less cost incurred by the property owners/landlords due to the differing requirements with respect to performance of the initial inspections work. The initial inspections are done visually as part of the Certificate of Occupancy inspection, and do not require EPA certified lead-paint inspectors or risk assessors unless, visually, there is reason to believe there is a lead-paint hazard.

Under Alternative 2, the reduced costs would mean it is potentially more economically viable to the rental housing market for properties to be remediated under Alternative 2. This will allow the City to collect taxes from more properties across the City and keep the property tax revenue higher than under Alternative 1.

Alternative 3 would potentially result in the least amount of costs being passed on to the property owners, but the greatest cost being incurred by the City of Rochester. This is because much of the costs (e.g., inspection, evaluation and clearance examinations) under this alternative will be the responsibility of the City of Rochester. This will result in little fluctuation to the property tax collection for the City, however, will cost the City a portion of that tax revenue to pay for the additional services for hazard control. Due to the numerous factors involved with the calculation of the taxes and potential services, it is difficult to determine the direct impact under Alternative 3 as it compares with the other alternatives.

An additional, measure of theoretical tax impacts is suggested that includes potential benefits (reduction) to overall tax spending as a result of reducing the number of lead-poisoning cases. Literature suggests that lead poisoning can result in reduced IQ, learning disabilities, attention deficit disorders, behavioral problems, stunted growth, impaired hearing, and kidney damage (see Section 4.7). These problems could potentially lead to lost future earnings increased health care costs, increased costs for special education, increased costs for criminal justice, and state cost for lead poisoning prevention (as presented in 5.5.2.6). If incidences of lead poisoning were reduced, long term social and economic benefits as well as tax revenue benefits, to the community, would potentially be realized as a result of improvement.

There would be no significant impacts to the taxes collected or the City revenue under the No Action Alternative.

5.5.4 Specific Impacts to Study Area Neighborhoods

Under Alternative 1, a “targeted” lead code compliance program is proposed. It is not anticipated that the implementation of Alternative 1 will directly or indirectly impact the demographic characteristics of a specific neighborhood more than others, because people will either only be temporarily displaced or are assumed to remain in the same neighborhood in the rare occasion that they are permanently displaced. Alternative 1 may however impact housing and/or human health by specific neighborhoods, and those potential impacts are presented in the table in

Section 5.6 – Housing and, in general, for health impacts in Section 5.7 – Human Health.

The triggering mechanism under Alternative 2 is the Certificate of Occupancy under City Code 90-16. If implemented, this mechanism would evenly apply the lead hazard initiative across the entire City, and not be concentrated in particular neighborhoods. This would not target or impact one neighborhood of the City any more or less than another with respect to when inspections were required.

Alternative 3 is similar to Alternative 2, in that the Certificate of Occupancy under City Code 90-16 is the triggering mechanism. Thus, there will also be no impacts to specific neighborhoods more than others with respect to inspections.

There would be no significant impacts to the specific study area neighborhoods with respect to demographic characteristics under the No Action Alternative. However, under the No Action Alternative, there may be neighborhood specific health impacts, and those are described in Section 5.7 – Human Health.

5.6 Housing

As stated in Section 5.1, the general methodology and assumptions for the impact analysis are summarized in Appendix C. This includes the rationale for cost figures, assumptions on property management finances, and other data associated with the housing market. There were also previous studies that were utilized to the extent they were relevant to this analysis, including two studies that had many commonalities with this analysis with respect to potential impacts on the housing market. They include (see Section 8 for full citations):

1. *The Milwaukee Pilot Ordinance: An Evaluation of the Implementation Process* by the National Center for Healthy Housing
2. *The Effect of Lead Paint Abatement Laws on Rental Property Values*, which appeared in the American Real Estate & Urban Economics Association (AREUEA) Journal.

It should be noted that in the AREUEA Journal article researchers determined that laws developed requiring the removal of lead from residential properties would only infrequently result in abandonment of properties. In fact, the study found that the more likely response by property owners was to sell their properties; a finding indicating that value was still realizable by market participants after the lead ordinance was implemented. The small likelihood of abandonment was attributable to the added cost of lead hazard control being less than the value of the rental property. Municipal officials in Baltimore noted an overwhelming large compliance rate with the lead ordinance. At least 95% of property owners complied with the program. The study was completed in an urban setting where property values had been steadily declining during that time period, similar to the City

of Rochester (AREUEA Journal 1988). The Milwaukee Pilot Ordinance was discussed in detail in Section 2.4.1.2.

For the City of Rochester, the analysis used to evaluate the three alternatives was designed using generally accepted economic and market appraisal principles, similar to methods employed in the studies mentioned above. When dealing with properties that potentially contain lead-based paint, it is important to remember that each property is unique and that no study can provide generalized information that applies to all properties. Further, it is neither feasible nor practical to make any decisions on the financial position of individual property owners or their specific personal decision making factors. However, the analysis provides an indication of order of magnitude impacts based on actual market data and real estate conditions in select areas throughout the City.

5.6.1 Potential for Abandonment

5.6.1.1 Owner-Occupied Housing

For owner-occupied units, the potential estimated one-time lead hazard control cost under each alternative, which is assumed to be identical, was compared to the estimated market value of single-family homes (classification code 210) by study area neighborhood according to actual arm's length sales compiled by the New York State Office of Real Property Services (NYS ORPS). An arm's length sale is a sale completed by a willing buyer and seller with full knowledge and without any undue pressure or duress to complete the sale. One-time or non-recurrent lead hazard reduction cost estimations of \$7,500 and \$3,500 were used in this analysis and are described further in Appendix C.

The cost of potential lead hazard control measures for homes was estimated from interviews conducted with local stakeholders in addition to data obtained from previous studies. The average lead hazard control costs for a typical home was approximately \$7,557 (\$8,140 in 2005) according to the CGR report (CGR 2002). Additionally, according to a report published in 1988 by the AREUA, a project in Baltimore, MD estimated lead hazard control costs at approximately \$3,815, which, inflated to current year dollars is equal to approximately \$6,410. Also, according to a variety of interviews conducted with local contacts, and based upon the information from the two reports listed above, \$7,500 was determined to be an appropriate estimate for average lead hazard control work for purposes of this analysis.

In addition, during the course of preparing the GEIS, it was determined that there were other lead hazard control programs [e.g. Get the Lead Out (GLO)] that were ongoing in the Rochester community that were reporting differences in the average lead hazard costs from what was presented in the DGEIS. Although it is believed that the \$7,500 lead hazard control cost presented in the DGEIS, obtained from interviews with local landlords and various other sources, is a reliable indicator of the average costs associated with making a unit lead safe, the Final GEIS

5. Impact Analysis

was updated to include an analysis of a \$3,500 one-time lead hazard reduction cost, to represent this lower range.

The ratios of lead hazard control costs to market value provided an indication of which neighborhoods would most likely be impacted by any of the proposed ordinances. Table 5-4 below presents the ratios calculated by neighborhood, and for ease of viewing, the higher ratios are shaded darker.

Table 5-4 Owner Occupied Housing Summary Table

Neighborhoods	Ratio of Lead Hazard Control Costs (\$7,500) to Market Value of Homes	Ratio of Lead Hazard Control Costs (\$3,500) to Market Value of Homes
14621 North	16%	<u>8%</u>
14621 South	26%	<u>12%</u>
19th Ward	13%	<u>6%</u>
Atlantic-University	8%	<u>4%</u>
Beechwood	17%	<u>8%</u>
Charlotte	10%	<u>5%</u>
Cobbs Hill	5%	<u>2%</u>
Corn Hill	9%	<u>4%</u>
Culver-Winton-Browncroft	9%	<u>4%</u>
Edgerton	21%	<u>10%</u>
Ellwanger-Barry/Swillburg	9%	<u>4%</u>
Genesee-Jefferson/Plymouth Ex.	34%	<u>16%</u>
Homestead Heights	13%	<u>6%</u>
Inner Loop-Alexander	6%	<u>3%</u>
Maplewood East	13%	<u>6%</u>
Maplewood West	13%	<u>6%</u>
Mayors Heights	27%	<u>12%</u>
North Marketview Heights	25%	<u>12%</u>
Northland-Lyceum	14%	<u>7%</u>
Park Avenue	5%	<u>2%</u>
Pearl-Meigs-Monroe	13%	<u>6%</u>
POD/CHAC/BEST	27%	<u>13%</u>
South Marketview Heights	21%	<u>10%</u>
South Wedge	13%	<u>6%</u>
Strong	9%	<u>4%</u>
Susan B. Anthony	21%	<u>10%</u>
Unit Lyell-Otis	15%	<u>7%</u>
Upper Falls	28%	<u>13%</u>
Upper Monroe	8%	<u>4%</u>

Table 5-4 Owner Occupied Housing Summary Table

Neighborhoods	Ratio of Lead Hazard Control Costs (\$7,500) to Market Value of Homes	Ratio of Lead Hazard Control Costs (\$3,500) to Market Value of Homes
---------------	---	---

Notes:

1. Shading represents progressively higher ratios of lead hazard control costs to the estimated market value of the homes utilizing the following scale:

<10%	
10%-19%	
20%-29%	
>30%	

Assumptions:

1. All three alternatives were analyzed using average one-time lead hazard control costs of \$7,500 and \$3,500 (see Appendix C).
2. The average market value of homes by study area was calculated using home sale data from the New York State Office of Real Property Services, and accounts for single-family homes (classification code 210), since this is an analysis specifically of owner-occupied units.

In order to draw conclusions on impacts, it was assumed that a ratio above 20% of the estimated market value of homes in the study area neighborhood was deemed significant. This is because at this threshold it is more likely that an owner would take some concerted action with respect to the property, besides compliance with the ordinance (i.e., either sell or abandon) because it would take a longer amount of time to recoup the cost of lead hazard controls. The study areas using the \$7,500 cost that were most impacted were:

- Genesee-Jefferson/Plymouth Ex. (34%),
- Upper Falls (28%),
- Mayor's Heights (27%),
- POD/CHAC/BEST (27%),
- 14621 South (26%),
- North Marketview Heights (25%),
- Edgerton (21%),
- South Marketview Heights (21%), and
- Susan B. Anthony (21%).

The impacts across the three alternatives are assumed to be identical if lead-based paint hazards are found and lead hazard control measures are necessary. What differentiates the alternatives is the number of affected owner-occupied housing

units, and the ongoing, annual maintenance costs. For both of these criteria, Alternative 1 will result in the highest degree of impact to home owners for the following reasons:

1. Under Alternative 1, owner-occupied residential units constructed prior to 1960, and where a child who is 6 years of age or younger resides in or is expected to reside in such housing, or is likely to play in or around such housing are subject to regulation, whereas under Alternative 2 and 3 only those rental properties which require a Certificate of Occupancy or are the subject of a complaint are subject to regulation (see Section 5.7.1 for more information).
2. Under Alternative 1, there is the potential for additional ongoing maintenance costs associated with keeping a housing unit lead-safe that may not be applicable under Alternatives 2 and 3. Refer to Table 3-1 under the topic “Ongoing Maintenance Requirements” for more details. These costs were not included in the analysis above.

In summation, this section on owner-occupied housing presents information detailing the specific neighborhoods where the home owners will be most affected by the proposed ordinance under all alternatives (Table 5-4). In addition, the section describes how Alternative 1 will place the greatest burden on property owners, thus creating this highest likelihood of potential abandonment. This abandonment would first occur in the neighborhoods where the ratio of lead-hazard control costs to housing market values is the highest.

5.6.1.2 Rental Housing

Method. Existing available data related to the housing market in the City of Rochester was first gathered and evaluated. The data was used to estimate the potential impacts to the housing market based on the proposed ordinance alternatives. Using generally accepted economic and real property appraisal principles; a rental market pro-forma cash flow analysis was conducted for each neighborhood. The pro-forma analyses were completed for a 10-year planning horizon and were based on the income method. The income method discounts each neighborhood’s net income streams to arrive at a lump sum present market value, taking into account the baseline situation and the “with ordinance” implementation situation. Each neighborhood’s pro-forma cash flow analysis used data on local rents, vacancy rates, number of occupied units and an estimate of the operational and maintenance expenses associated with maintaining these units.

To assess the “with ordinance” situation, lead hazard control costs (both one-time and annual recurrent) were added to the future operational and maintenance costs to arrive at adjusted net income.

The analysis for rental housing evaluated the impacts on market value by assessing the ability of property owners to pay for the one-time lead hazard control costs

and annual recurrent estimated lead-related costs (such as inspections), over a 10-year period. Market value was measured by the sum of the present worth of all future discounted annual net cash flows over the 10-year period.

Specific Modeling Assumptions. The 10-year horizon was chosen because it was assumed that these properties are long-term investments and ten years was an appropriate period to forecast the absorption of one-time costs and analyze recurring costs. The analysis was conducted for the 29 study area neighborhoods individually, utilizing neighborhood specific data such as average rent, number of housing units, and renter vs. owner-occupied housing units, since these criteria differ between each neighborhood.

To complete the pro-forma modeling exercise, additional assumptions were made concerning the use of an inflation rate, discount rate and operational and maintenance expenses. Operational and maintenance expenses were estimated at 60% of effective gross income based on locally procured real estate information and assumptions based upon stakeholder interviews (see Appendix C for details). A standard future inflation rate of 2.5% per annum was used to escalate future annual rents. No other growth rates were applied to either revenues or costs other than future CPI escalation. In this respect, the modeling exercise can be considered conservative in the assumptions employed. The choice of discount rate, 10%, was based on a slightly lower rate than that used by actual local market participants in their determination of capitalized market values.

Effective gross income calculates annual rental income per neighborhood based only on the number of occupied units.

In calculating future lead hazard control costs per each neighborhood, it was assumed that 100% compliance would occur each year. This assumption was used to assess the full impact on market values from this added incremental cost stream.

Results. Table 5-5 presents the lead hazard control scenarios for the three alternatives and shows the measure of market value, the Net Present Value (NPV) of future cash flows over the 10-year period for both the with ordinance implementation situation (defined as “with”), and the without or baseline situation (defined as “without ordinance”), the difference in value, and a ratio of the difference to the without ordinance scenario. This analysis was conducted using an average one-time lead hazard reduction cost of \$7,500. The ratio is provided to allow for comparison between study area neighborhoods and a general level of magnitude. The values in Table 5-5 are aggregated for all the rental units in the study area neighborhood.

5. Impact Analysis

Table 5-5 Potential Rental Housing Impacts Using a One-time Cost of \$7,500
(amounts in dollars)

	Alt. 1	Alt. 2	Alt. 3
City of Rochester Total			
Net Present Value (NPV) With:	472,252,027	646,368,192	982,680,111
NPV Without:	1,011,924,625	1,011,924,625	1,011,924,625
Difference	539,672,598	365,556,433	29,244,515
Ratio of Difference to NPV Without	0.53	0.36	0.03
14621 North			
NPV With:	26,378,765	37,848,704	60,003,320
NPV Without:	61,929,809	61,929,809	61,929,809
Difference	35,551,044	24,081,105	1,926,488
Ratio of Difference to NPV Without	0.57	0.39	0.03
14621 South			
NPV With:	30,163,260	41,724,834	64,056,449
NPV Without:	65,998,328	65,998,328	65,998,328
Difference	35,835,068	24,273,494	1,941,880
Ratio of Difference to NPV Without	0.54	0.37	0.03
19th Ware			
NPV With:	32,212,405	41,969,598	60,815,985
NPV Without:	62,454,801	62,454,801	62,454,801
Difference	30,242,397	20,485,203	1,638,816
Ratio of Difference to NPV Without	0.48	0.33	0.03
Atlantic-University			
NPV With:	19,901,148	26,390,878	38,926,035
NPV Without:	40,016,049	40,016,049	40,016,049
Difference	20,114,900	13,625,171	1,090,014
Ratio of Difference to NPV Without	0.50	0.34	0.03
Beechwood			
NPV With:	15,807,746	21,739,081	33,195,678
NPV Without:	34,191,904	34,191,904	34,191,904
Difference	18,384,158	12,452,823	996,226
Ratio of Difference to NPV Without	0.54	0.36	0.03
Charlotte			
NPV With:	15,193,842	21,141,181	32,628,690
NPV Without:	33,627,603	33,627,603	33,627,603
Difference	18,433,761	12,486,423	998,914
Ratio of Difference to NPV Without	0.55	0.37	0.03
Cobbs Hill			
NPV With:	14,502,935	18,324,357	25,705,577
NPV Without:	26,347,422	26,347,422	26,347,422
Difference	11,844,488	8,023,066	641,845
Ratio of Difference to NPV Without	0.45	0.30	0.02

5. Impact Analysis

**Table 5-5 Potential Rental Housing Impacts Using a One-time Cost of \$7,500
(amounts in dollars)**

	Alt. 1	Alt. 2	Alt. 3
Corn Hill			
NPV With:	8,166,681	11,632,987	18,328,287
NPV Without:	18,910,487	18,910,487	18,910,487
Difference	10,743,806	7,277,500	582,200
Ratio of Difference to NPV Without	0.57	0.38	0.03
Culver-Winton-Browncroft			
NPV With:	22,380,482	29,650,168	43,691,840
NPV Without:	44,912,855	44,912,855	44,912,855
Difference	22,532,374	15,262,687	1,221,015
Ratio of Difference to NPV Without	0.50	0.34	0.03
Edgerton			
NPV With:	29,326,100	41,284,402	64,382,312
NPV Without:	66,390,825	66,390,825	66,390,825
Difference	37,064,725	25,106,423	2,008,514
Ratio of Difference to NPV Without	0.56	0.38	0.03
Ellwanger-Barry/Swillburg			
NPV With:	7,860,112	10,075,299	14,354,016
NPV Without:	14,726,078	14,726,078	14,726,078
Difference	6,865,966	4,650,779	372,062
Ratio of Difference to NPV Without	0.47	0.32	0.03
Genesee-Jefferson/Plymouth Ex.			
NPV With:	14,788,243	21,289,347	33,846,475
NPV Without:	34,938,399	34,938,399	34,938,399
Difference	20,150,156	13,649,052	1,091,924
Ratio of Difference to NPV Without	0.58	0.39	0.03
Homestead Heights			
NPV With:	5,058,175	6,911,424	10,491,046
NPV Without:	10,802,317	10,802,317	10,802,317
Difference	5,744,143	3,890,893	311,271
Ratio of Difference to NPV Without	0.53	0.36	0.03
Inner Loop-Alexander			
NPV With:	5,858,521	8,522,141	13,667,023
NPV Without:	14,114,404	14,114,404	14,114,404
Difference	8,255,883	5,592,263	447,381
Ratio of Difference to NPV Without	0.58	0.40	0.03
Maplewood East			
NPV With:	28,842,684	38,523,880	57,223,474
NPV Without:	58,849,525	58,849,525	58,849,525
Difference	30,006,841	20,325,645	1,626,052
Ratio of Difference to NPV Without	0.51	0.35	0.03

5. Impact Analysis

**Table 5-5 Potential Rental Housing Impacts Using a One-time Cost of \$7,500
(amounts in dollars)**

	Alt. 1	Alt. 2	Alt. 3
Maplewood West			
NPV With:	11,132,528	14,692,914	21,569,933
NPV Without:	22,167,934	22,167,934	22,167,934
Difference	11,035,406	7,475,021	598,002
Ratio of Difference to NPV Without	0.50	0.34	0.03
Mayors Heights			
NPV With:	2,570,536	3,778,949	6,113,044
NPV Without:	6,316,009	6,316,009	6,316,009
Difference	3,745,473	2,537,060	202,965
Ratio of Difference to NPV Without	0.59	0.40	0.03
North Marketview Heights			
NPV With:	14,909,206	21,269,856	33,555,689
NPV Without:	34,624,022	34,624,022	34,624,022
Difference	19,714,816	13,354,167	1,068,333
Ratio of Difference to NPV Without	0.57	0.39	0.03
Northland-Lyceum			
NPV With:	13,955,578	19,231,684	29,422,681
NPV Without:	30,308,855	30,308,855	30,308,855
Difference	16,353,277	11,077,171	886,174
Ratio of Difference to NPV Without	0.54	0.37	0.03
Park Avenue			
NPV With:	48,440,649	62,722,664	90,308,914
NPV Without:	92,707,718	92,707,718	92,707,718
Difference	44,267,069	29,985,054	2,398,804
Ratio of Difference to NPV Without	0.48	0.32	0.03
Pearl-Meigs-Monroe			
NPV With:	7,500,117	10,619,718	16,645,345
NPV Without:	17,169,313	17,169,313	17,169,313
Difference	9,669,196	6,549,595	523,968
Ratio of Difference to NPV Without	0.56	0.38	0.03
POD/CHAC/BEST			
NPV With:	16,806,867	23,797,521	37,300,232
NPV Without:	38,474,381	38,474,381	38,474,381
Difference	21,667,514	14,676,860	1,174,149
Ratio of Difference to NPV Without	0.56	0.38	0.03
South Marketview Heights			
NPV With:	4,695,387	6,841,932	10,988,066
NPV Without:	11,348,599	11,348,599	11,348,599
Difference	6,653,212	4,506,667	360,533
Ratio of Difference to NPV Without	0.59	0.40	0.03

5. Impact Analysis

Table 5-5 Potential Rental Housing Impacts Using a One-time Cost of \$7,500
(amounts in dollars)

	Alt. 1	Alt. 2	Alt. 3
South Wedge			
NPV With:	21,420,152	30,511,826	48,072,735
NPV Without:	49,599,771	49,599,771	49,599,771
Difference	28,179,619	19,087,945	1,527,036
Ratio of Difference to NPV Without	0.57	0.38	0.03
Strong			
NPV With:	14,342,732	19,996,901	30,918,142
NPV Without:	31,867,815	31,867,815	31,867,815
Difference	17,525,083	11,870,913	949,673
Ratio of Difference to NPV Without	0.55	0.37	0.03
Susan B. Anthony			
NPV With:	3,332,682	4,983,495	8,172,102
NPV Without:	8,449,372	8,449,372	8,449,372
Difference	5,116,691	3,465,878	277,270
Ratio of Difference to NPV Without	0.61	0.41	0.03
Unit Lyell-Otis			
NPV With:	11,766,901	15,960,937	24,061,875
NPV Without:	24,766,305	24,766,305	24,766,305
Difference	12,999,404	8,805,368	704,429
Ratio of Difference to NPV Without	0.52	0.36	0.03
Upper Falls			
NPV With:	12,817,233	19,463,489	32,300,982
NPV Without:	33,417,286	33,417,286	33,417,286
Difference	20,600,053	13,953,797	1,116,304
Ratio of Difference to NPV Without	0.62	0.42	0.03
Upper Monroe			
NPV With:	12,120,361	15,468,025	21,934,165
NPV Without:	22,496,438	22,496,438	22,496,438
Difference	<u>10,376,077</u>	<u>7,028,413</u>	<u>562,273</u>
<u>Ratio of Difference to NPV Without</u>	<u>0.46</u>	<u>0.31</u>	<u>0.02</u>

The aggregation of all units in a neighborhood represents an average order of magnitude impact and can be used to distinguish the market value impact per neighborhood. It can be expected that impacts to individual properties (within a neighborhood) will vary based on the individual value parameters associated with each particular property and owner's behavior. Nevertheless, the analysis represents a systematic, disciplined, conventional approach towards assessing market value impacts with and without the ordinance based on conservative modeling assumptions and given the data employed.

Alternative 1 has a greater impact on the cash flow to property owners, as can be seen in Table 5-5 by comparing the difference between the "with" and "without"

5. Impact Analysis

scenarios across the three alternatives, in addition to comparing the ratios between the difference and the without ordinance scenario. For example, the total cash flow to landlords for the City of Rochester in the “without” scenario under each alternative is \$1.01 billion. Looking at the “with” scenarios under each of the three alternatives, notice that Alternative 1 results in the least amount of cash flow recovered over the 10-year period, followed by Alternative 2 and finally Alternative 3. This means that over the 10-year period, the total cash flow to property owners would be the least under Alternative 1, and be the least attractive option for property owners. Similarly, the ratio of the difference to the NPV without scenario is always the highest under Alternative 1.

In general, it should be noted that the return to a positive cash flow for property owners over a 10-year horizon indicates that the current property owner can sustain their investment, or if they choose to sell their property, would be able to attract other investors. Thus, there would be limited abandonment as a result of the implementation of one of the alternatives, with varying degrees of magnitude (Alternative 1 would have the largest impact and Alternative 3 would have the least impact on property owners).

For a more specific categorization of financial impacts, the ratios could be compacted and contrasted between both study area neighborhoods and alternatives. The highest ratio is 0.62 under Alternative 1 in Upper Falls. This means that the ratio of the difference between the “with” and “without” scenarios compared to the without scenario is the largest in Upper Falls. This could be for several reasons, but is most likely due to the very low property values and rents collected in the area. The lowest ration under Alternative 1 was in Upper Monroe, which has comparatively higher property values and rents collected. Alternative 2 had moderate ratios and Alternative 3 had substantially lower ratios across all study area neighborhoods.

Since the figures in the table are aggregated for the entire study area, they represent a neighborhood average. Therefore, the value results cannot be applied to individual properties within these areas without additional specific adjustments. As stated above, there will be unique situations associated with each property that will govern whether it can be sustained as a profitable rental property. However, the data evaluated suggests that the rental housing market in the study areas is generally sustainable under the three alternatives. In other words, market values can be expected to absorb and tolerate the incremental costs associated with implementing a lead-based paint ordinance.

The same analysis was conducted using a one-time lead hazard control cost of \$3,500. Table 5-6 indicates that with a lower one-time lead hazard control cost, there would be an overall reduction in total cost and suggests that property owners would recoup their costs faster than with the \$7,500 figure. It is important to note that the “Ratio of the Difference to the NPV Without” figures across all three al-

5. Impact Analysis

alternatives are reduced from what is presented using the \$7,500 analysis in proportion to one another.

**Table 5-6 Potential Rental Housing Impacts Using a One-time Cost of \$3,500
(amounts in dollars)**

	Alt. 1	Alt. 2	Alt. 3
City of Rochester Total			
Net Present Value (NPV) With:	667,215,458	841,331,623	998,277,185
NPV Without:	1,011,924,625	1,011,924,625	1,011,924,625
Difference	344,709,167	170,593,002	13,647,440
Ratio of Difference to NPV Without	0.34	0.17	0.01

In The Property Owners and Managers Survey (POMS) conducted in 1995 by the US Census Bureau, it was found that the third most frequent regulation which makes it difficult to operate small rental properties (defined as less than five units) was lead-based paint requirements (Savage 1998). This supports the claim that the ordinances proposed in this GEIS run the risk of creating animosity and financial stress for property owners and creates the potential for abandonment within certain isolated areas of the City's housing market. However, as discussed previously, it does not appear that any of the alternatives will result in mass abandonment of housing, but Alternative 1 will put the largest financial burden on the existing property owners.

Potential mitigation measures that would serve to reduce the burden on property owners under all alternatives include such measures as making federal, state, and local funds available for lead-hazard control measures, aiding in the application for grant money to perform work, and providing additional guidance on the best ways to identify and control potential lead hazards.

The No Action Alternative would result in no change to the costs incurred by property owners or the City and would not directly impact the housing market.

5.7 Human Health

This section discusses potential health implications of three alternative ordinances that pertain to lead poisoning prevention for City neighborhoods.

Prior to presentation of this analysis and drawing any specific conclusions with respect to which of the alternative ordinances will impact the most number of properties (and subsequently, have the potential to protect the largest number of people) there are certain limitations and qualifications that must be recognized and placed on this assessment. As each of the ordinances as drafted states, the ultimate goal of the lead poisoning prevention ordinance is to protect the health of the people in Rochester from lead-based paint exposure. While each of proposed alternatives strive to eliminate lead hazards in Rochester housing units, it should be noted that it is difficult to accurately predict the actual number of individuals

whose health will be protected as a result of each alternative. This is the case for the following reasons:

- **Transient nature of tenants.** According to meetings held with members of the Rochester Housing Authority, the City of Rochester and the Coalition to Prevent Lead Poisoning, many low-income renters who reside in the housing potentially most at risk for lead exposure, move often. Ultimately, the only way to protect against being exposed to lead in this scenario is to have all housing units free of any lead danger.
- **Unknown number of those at-risk.** Under each proposal, housing units subject to the provisions of the ordinance will be documented, but individuals living in them will not. Thus, there is no way of knowing how many people potentially at-risk of exposure to lead hazard there may actually be and no way to determine how many individuals may actually be protected by the code amendments.
- **The presence of lead does not ensure exposure and dose.** The underlying tenant of toxicology is the dose/response relationship. An individual must receive a documented dose large enough to have caused any potential health problem. The environmental presence of lead does not ensure that individuals living in these properties will actually receive a dose of lead. Presence of lead is merely the opportunity to be exposed, does not constitute dose or lead-poisoning.
- **Health consequences of individuals under six years old.** The majority of lead programs, initiatives, monitoring and treatment concentrate on children under the age of six. Literature suggests that children in the 0 to 6 year old age bracket are most susceptible for a variety of reasons (see Section 4.7.1) Due to the transient nature of the tenants, there is no way to ensure that individuals under six years of age will not be exposed to lead, other than to completely eliminate the potential for exposure (i.e., all housing units free of any lead danger).
- **Learning disabilities and other socioeconomic factors not related to lead poisoning.** The main purpose in establishing the lead poisoning prevention ordinance is to protect children less than six years of age from the dangers of lead poisoning. While there is no debate over the link between high blood levels and health problems in children (including learning disabilities), it should be noted that, although very serious, lead is not the sole reason why children experience learning deficiencies. Invocation of a lead poisoning prevention ordinance, even with complete protection of at-risk population, would not completely eliminate other reasons for learning disabilities for some children, such as their learning environment, involvement of parents in learning at home, and other health-related problems.

As stated previously, one of the objectives of the GEIS is to compare the three proposed ordinances with respect to impacts on human health, including an analysis of the number of impacted housing units potentially made lead-safe under each alternative. The discussion that follows thus will focus on the health-protective aspects of each of the alternatives. It has been determined that there are several criteria in each of the alternative ordinances that do not have a material impact on health protection and/or the number of impacted housing units made safe. These criteria are important, but do not necessarily impact human health, and include the formation of a logistics of notifications, responsibility for payment, etc. Only those criteria that apply to potential lead hazards and have a potential affect human health are discussed below.

5.7.1 Affected Properties

While the stated purpose of each of the proposed lead hazard control ordinances is the same, the number of impacted housing units potentially made lead-safe under each ordinance varies widely. Construction dates (i.e. target housing includes all residential rental housing in the City of Rochester constructed prior to 1978) provide a measure of a defining characteristic of affected properties. Target housing includes mixed-use (residential properties also with non-residential uses, such as a storefront) properties.

Alternative 1 (Proposed New Chapter 60: Lead Poisoning Prevention Code) is the most wide reaching of the three proposed alternatives with respect to affected properties (“target properties”). Section 60—104(B) of Alternative 1 defines target housing as all residential rental housing in the City of Rochester constructed prior to 1978, and all owner-occupied residential units constructed prior to 1960. “Zero bedroom” housing, such housing is not considered target housing unless a child who is 6 years of age or younger resides in or is expected to reside in such housing, or is likely to play in or around such housing. “Zero bedroom” housing is an efficiency or studio apartment, or any other unit in which the living area is not separated from the sleeping area.

In addition, Section 60-102(B)(2) of Alternative 1 provides language with respect to those housing units that will be required to obtain an examination stating “...The requirement to obtain an examination will be triggered by notices sent by the City to owners of housing identified as the most likely to contain lead hazards.” Because Alternative 1 focuses on housing built prior to 1978 and potentially impacts a broad range of properties, and because its targeting approach is tailored specifically to impact those properties most likely to have the most dangerous conditions where most at-risk people reside, it can be considered the most health protective. Therefore, with respect to long-term protection of environmental health in the City of Rochester, it can be argued that Alternative 1 would allow the City to potentially obtain lead-safe housing among the most high risk housing units in the shortest time period.

Alternative 2 (Proposed Amendment to Chapter 90 #1: Lead-Based Paint Poisoning Prevention) refers to “Certificate of Occupancy” requirements and a specific city code (§90-16) and thus could perhaps be considered definitive with respect to the number of affected properties. Additional properties may be made subject to certain provisions if a complaint is made. Thus Alternative 2 also has the potential to impact more properties than the number that actually present a legitimate lead-paint hazard.

Alternative 3 (Proposed Amendment to Chapter 90 #2: Lead-Based Paint Poisoning Prevention) provides an additional stipulation over Alternative 2 in that it includes “properties owned/occupied by a party requesting a lead-paint inspection.” Accordingly, Alternative 3 is also broadly inclusive and could impact a larger number of housing units than the number that actually present a legitimate lead-paint hazard in order to accomplish the purpose of the ordinance.

5.7.2 Exempt Properties

Each of the alternatives contains provisions exempting certain properties from the reach of the ordinances. Examples of these exempt properties include (refer to Table 3-1 under the “Exempt Properties” topic for details):

- Owner-occupied housing (Alt 1)
- State/federal housing for the disabled or elderly (Alt 1)
- Zero bedroom housing, unless child under 6 is present (Alt 1)
- Dormitory housing (Alt 1)
- Institutional housing (Alt 1)
- Unoccupied residential property set to be demolished (Alt 1)
- Properties taken by a government entity in a foreclosure proceeding that are vacant and either (1) scheduled for demolition or (2) scheduled for sale within 12 months (Alt 2 and 3)

5.7.3 What is Required if Deteriorated Lead-based paint or Presumed Lead-based Paint or Other Lead-based Paint Hazards are Detected During Inspection?

There are several differences between alternatives 1, 2, and 3, when a unit is found to contain lead-paint hazards. Alternative 1 is different than alternatives 2 or 3 in that it requires the establishment of a plan for controlling the hazards using lead-safe work practices be put in place within sixty (60) days. If the unit fails a clearance examination, a new plan requiring hazard controls shall be implemented within thirty (30) days. The “Certificate of Lead Poisoning Prevention Code Compliance” is then issued for a six month duration [§60-105(C)(2)]. The clear-

ance examination under alternatives 1, 2, and 3 are all comparable as noted in Section 5.7.4.

Alternatives 2 and 3 [§90-55 and §90-56, respectively] have many similarities in that they both allow for the condition to be corrected by: certification by a certified lead-based paint inspector or certified risk assessor that the property has been determined to be lead-free upon an inspection conducted in accordance with 24 CFR §35.1320; certification by a certified lead-based paint inspector or risk assessor that all lead-based paint on the property has been identified and removed and clearance has been achieved in accordance with 24 CFR §§35.1320, 35.1325 and 35.1340; certification by the Rochester Housing Authority or other state/federal supervising agency that regulates an assisted housing program stating that the property is in compliance with inspection and clearance requirements and, if applicable, 24 CFR Part 35; and certification by a certified risk assessor that all lead-based paint and hazards have been identified, reduced, and controlled, and clearance achieved in accordance with 24 CFR §§35.1320, 35.1330, and 35.1340.

However, there are two major differences to be noted between Alternatives 2 and 3. Alternative 3 states "...the Commissioner shall recommend hazard reduction activities to correct the hazard," which puts the onus and liability on the City for adequate and appropriate lead hazard control measures. Alternative 3 is also the only alternative of the three that contains language specifying that dwellings occupied by a child under the age of 6 may be subject to a Notice and Order requiring removal of deteriorated lead-based or presumed lead-based paint prior to further activity. For this reason, Alternative 3, assuming the transient nature of the renters, could be considered the most protective of the three with regard to addressing child lead exposure.

The detail of all criteria discussed is specifically outlined in Table 3-1 under the same topic name as this section.

5.7.4 Clearance Standards

Clearance standards required for Alternatives 1, 2 and 3 are all comparable for all sources of potential contact for children 6 and under.

5.7.5 Disclosure and Other Requirements Upon Property Transfer

Alternative 1 is the most comprehensive with respect to disclosure. Disclosure in this context refers to the proper dissemination of information on potential hazards to prospective buyers and/or renters. Alternative 2 does not stipulate what constitutes disclosure, but instead relies upon the requirements of existing federal statutes and regulations. More comprehensive disclosure could lead to more informed decisions concerning property purchase or leasing, with the end result that fewer at-risk persons (children) are apt to reside in properties with harmful levels of lead. Alternative 3 states that the seller or lessor shall disclose to the purchaser or tenant the presence of any known lead-based paint or hazards in or around the

transferable property, and they shall permit the purchaser a 10-day period to conduct a lead-based paint assessment prior to purchase.

5.7.6 Achieving Lead Safe Goal by 2010

HUD is collaborating with the USEPA, CDC and the Alliance for Healthy Homes to reach the national goal of Lead Safe by 2010. Together these agencies have joined forces to develop strategic plans that will eliminate childhood lead poisoning by 2010. The strategies being developed recognize the societal disparities that are affecting childhood lead poisoning, take a critical look at lead poisoning, apply lessons learned, consider new prevention strategies and target resources to children at highest risk.

With respect to meeting the stated goal of being Lead Safe by 2010 amongst the alternatives being considered, Alternative 1 provides the best opportunity to achieve this objective. Alternative 1 focuses on or targets housing most likely to contain lead hazards, by identifying housing in the census tracts which have been identified with the highest risk of containing lead-based paint hazards. As a result of this targeting approach, Alternative 1 provides the best opportunity to eliminate lead hazards within the highest risk housing and ultimately lead poisoning in the City of Rochester the fastest.

Alternatives 2 and 3, which require inspection and evaluation of painted surfaces for deterioration in pre-1978 structures upon application or renewal of a Certificate of Occupancy, could also meet the goal of Lead Safe by 2010, however, it is unlikely they would meet the goal as quickly as Alternative 1 due to Alternative 1's targeting approach. Alternative 3 is however, the only alternative of the three that contains language specifying that dwellings occupied by a child under the age of 6 are subject to a Notice and Order requiring removal of determined lead-based or presumed lead-based paint prior to further activity.

5.7.7 Summary of Alternatives

For reasons mentioned above, it is very difficult to quantify an increase in the number of homes or persons, particularly children that may be protected by adoption of any one of the alternative ordinances. This is because there are so many variables that can impact the exposure and overall protection of the most at-risk populations from lead poisoning. Based on a comprehensive review of the ordinances, the following key observations are made:

- Alternative 1 (Proposed New Chapter 60: Lead Poisoning Prevention Code) includes the broadest categories of houses targeted for assessment and potential lead hazards control work and because Alternative 1 allows for the fewest exemptions, based on the broadest universe of potential structures and therefore tenants who could be impacted, this Alternative has the widest reach and could potentially be considered the most "health protective." Therefore, with respect to long term protection of environmental health in the City of Rochester, it can be argued that Alternative 1 would allow the City to potentially ob-

tain lead-safe housing among the most high risk housing units in the shortest time period. Alternative 1 specifies that a property is not exempt if a child 6 years of age or younger resides in, is expected to reside in, or is likely to play in or around a given property, therefore limiting an exemption for properties with the most at risk population. In fact, by using the demographic and housing units indicators suggested in the professional literature, the city can expect to reach, within two or three years, the vast majority of children who are presently at greatest risk of poisoning. Lastly, Alternative 1 is the only alternative that would require periodic re-inspection (in less than 5 years) of properties that are remediated using interim controls.

- Alternative 2 outlines a universe of eligible properties for inspection following the renewal of the Certificate of Occupancy, however, does not specifically address those cases of housing units with children under the age of 6. Thus, efforts and resources may be expended on properties with no children present and those homes with children under the age of 6 are not made a priority.
- Alternative 3 – Proposed Amendment to Chapter 90 #2: Lead-Based Paint Poisoning Prevention – provides the greatest degree of overall reduction in potential exposure for the most at risk population in Rochester. This is because Alternative 3 most consistently addresses lead exposure issues for the target population (children age 6 and under). Alternative 3 is the only alternative of the three that contains language specifying that dwellings occupied by a child under the age of 6 are subject to a Notice and Order requiring removal of deteriorated lead-based or presumed lead-based paint prior to further activity.
- Under the No Action Alternative, none of the proposed ordinances would be implemented, and there would be no action taken to identify, remediate, and monitor lead-paint hazards in residential units in the City of Rochester. This would not make any progress towards the overall human health goal of reducing the incidence of childhood lead-poisoning.

5.8 Historic Resources

As discussed in Section 4.8, the City of Rochester has a significant number of historically important structures located within the City. There is the potential for a significant impact on architectural and historic resources as a result of the proposed alternatives depending on the specific properties that require remediation.

The alternative ordinances specifically address lead in residential housing, and mandated work on these structures may have an effect upon historic architectural resources of the area. None of the proposed ordinances mandate any physical exterior alterations to any historic structures. However, there could be physical alterations (i.e. windows, porches, doors) to the exterior and interior of historic structures or structures located within historic districts.

5. Impact Analysis

It is difficult to determine the exact number or specific-type of properties that will be negatively impacted due to adoption of one of the three potential ordinances. Properties located within designated Preservation Districts or which are designated Landmarks would be protected from inappropriate alteration. It would be the responsibility of the property owner to work through the appropriate channels to properly address any identified needs for lead evaluation and remediation, while adhering to the regulations protecting historic resources.

The City of Rochester recognizes the importance of preserving sensitive historic resources. Any potential impact to historic resources will be evaluated by the City. Those designated resources requiring further evaluation by the New York State Office of Parks, Recreation, and Historic Preservation under either the State or Federal preservation acts will be assessed prior to commencement of any lead-hazard reduction work.

Under the No Action Alternative, there will be no lead hazard control required of houses in the City of Rochester, thus, there will be no significant impact to any historic buildings.

5.9 Air Quality

The proposed action would not generate new development nor alter patterns of future development or traffic flow. Therefore, there would be no changes to vehicular or pedestrian patterns as a result of this action. Since the action would essentially have no change to traffic volumes or patterns, there would be no related mobile-source air quality impacts, nor would the action result in any changes to existing stationary emission sources.

As a result of enacting this proposed law, more remediation and hazard reduction work may be performed in a greater number of dwellings that will result in the overall disturbance of greater quantities of lead-based paint or other material from walls and other surfaces that are subject to the code's provisions. This may result in the temporary and localized generation of more particulate matter during demolition/construction activities.

“Lead Safe Work Practices Training” is available to mitigate potential impacts from lead paint hazard control work. If proper procedures are followed, there should be no adverse impact on air quality in the surrounding community from any of the alternative ordinances.

Under the No Action Alternative, there will be no change to the general air quality of the City.

6

Cumulative Impacts

A cumulative impact is an impact on the environment that could result from the incremental impact of the proposed action when added to other past, present or reasonably foreseeable future actions. Cumulative impacts can result from individually minor, but collectively significant actions that take place over time. It is also expected that the implementation of any one of these ordinances will promote the national and city goal of being lead-safe by 2010.

One such example of a cumulative impact would be the combination of one of these ordinances and any future ordinances, directly related to the city building code, that would affect the property owners and the housing stock of the city. The impacts are anticipated to be minimal since the need for any future ordinances relating to lead-based paint is not expected. The City of Rochester currently has no ordinances similar to the proposed.

The proposed ordinances would also work to further the City of Rochester and Monroe County's many initiatives and programs which are working to eliminate childhood lead poisoning. The impact the proposed ordinance will have on these programs is expected to be beneficial to the community.

7

Other Considerations

7.1 Consistency with Federal, State and Local Laws, Policies, and Regulations

Federal requirements for lead-based paint have been outlined in the Lead-Based Paint Poisoning Prevention Act (LBPPPA), Toxic Substances Control Act (TSCA), HUD Accountability statute, and several sections in the Code of Federal Regulations. These regulations govern the EPA, DOH, HUD, DOL, and OSHA lead-based paint programs and practices. State requirements for lead-based paint include provisions for public health, tenant protections, property maintenance and lead poisoning prevention and control regulations. Monroe County has provisions in local law that provide for elevated blood lead level investigation.

All Federal, State and Local laws, policy and regulations which are applicable to the proposed ordinances are described in Section 2.1. The proposed ordinances have been developed to be consistent with these statutes and regulations.

7.2 Irreversible and Irretrievable Commitment of Resources

The implementation of the proposed ordinances will require the irreversible and irretrievable commitment of certain human, material and financial resources. Energy resources, principally in the form of gasoline and electricity (nonrenewable forms of electricity) will be an irreversible loss during construction related to lead hazard control processes required by the proposed ordinances.

The proposed ordinances involve the investment of public and private funds to bring the housing units in the City of Rochester in compliance with the ordinances. Over the long-term, portions of these funds will potentially be recouped through the increase in property values; and the reduction of medical and other expenses linked to childhood lead poisoning. The expenditure of these funds is deemed worthwhile because it will eventually lead to the elimination of childhood lead poisoning in the City of Rochester.

In addition, the implementation of the proposed ordinances will require the use of labor from lead hazard evaluators and lead hazard control contractors. Although

representing an irretrievable commitment of human resources, the employment of these resources will result in beneficial impact on the local economy.

7.3 Unavoidable Adverse Effects

The proposed ordinances are consistent with the goal to eliminate childhood lead poisoning by 2010. The proposed ordinances will provide the foundation for this goal to become a reality. There are adverse impacts of the implementation of the proposed ordinances that cannot be mitigated. Unavoidable adverse impacts are defined as those that meet the following two criteria:

- There are no reasonable practicable mitigation measures that eliminate the impact; and
- There are no reasonable alternatives to the proposed project that would meet the purpose and need of the action, eliminate the impact, and not cause other or similar significant adverse impacts.

The implementation of any one of the proposed ordinances would result in an increased financial obligation for property owners who need to control the lead hazards present in their units. Although the costs of lead hazard control can be rather expensive, there are private and public funds currently available to property owners that qualify for the funding. The costs would be recouped by the resulting increase value of the unit after lead hazard controls are completed.

7.4 Growth-inducing Aspects of the Proposed Action

The purpose of instituting one of the proposed ordinances is to reduce children's exposure to lead-based paint in their homes. Reducing the number of children exposed to lead hazards within their home would eliminate one of the potential reasons for individuals choosing to live in homes in suburban areas around the city. Thus, although there are numerous additional reasons determining where a family chooses to live, this ordinance has the potential to indirectly stimulate potential residential growth within the city.

7.5 Effects on the Use and Conservation of Energy

The implementation of the proposed ordinances is expected to have a minor impact on the use of energy during lead hazard control processes. The lead hazard control processes require the use of nonrenewable sources of energy, mostly in the form of gasoline, electricity and lubricating oils. The energy resources will be used for the construction and remediation associated with the lead hazard control processes. Since the work will be done by private parties, the use and conservation of energy resources will vary by contractor.

8

References

- A Proactive Approach to Childhood Lead Poisoning. June 2002. United States Conference of Mayors. http://www.usmayors.org/uscm/resolutions/70th_conference/cdh_05.asp. May 26, 2005
- Agency for Toxic Substances and Disease Registry (ATSDR). 1999a. "Tox-FAQ[™] for LEAD," June 1999. www.atsdr.cdc.gov/tfacts13.html, accessed May 2005.
- Agency for Toxic Substances and Disease Registry. 1999b. "Toxicological Profile for Lead." <http://www.atsdr.cdc.gov/toxprofiles/tp13.pdf>. May 2005.
- Allen, George, CPM. 1996. "Worksheet Helps Define Community Value." <http://mdfhousng.com/gfa/worksheet.html>. June 2005.
- Alliance to End Childhood Lead Poisoning. July, 2000. "Action Plan to Make High-Risk Housing Lead Safe."
- Bellinger, D. C. 2004. Lead. *Pediatrics*. 113: 1016-22.
- Billone, John Jr., J. Hanna. April 19, 2005. Personal communication, meeting with Matt Butwin and Michael Kane. Rochester, New York.
- Brantingham, Patricia. April 18, 2005. Personal communication, meeting with Matt Butwin, Frank Stephen, and Dan Castle. Rochester, New York.
- Canfield, R.L., C.R. Henderson, D.A. Cory-Slechta, C. Cox, T.A. Juski, B.P. Lanphear. 2003. "Intellectual impairment in children with blood lead concentrations below 10 µg per Deciliter." *New England Journal of Medicine*. 348(16): 1517-1526.
- Centers for Disease Control and Prevention. 2000 "Recommendations for Blood Lead Screening of Young Children Enrolled in Medicaid: Targeting a Group at High Risk." *MMWR Morbidity and Mortality Weekly Report*. 49(RR-14).

8. References

- Centers for Disease Control and Prevention. 2005. "Childhood Lead Poisoning Prevention Program." www.cdc.gov/nceh/lead/guide/1997/docs/factlead.htm. June 2005.
- CGR. 2002. "Lead Poisoning Among Young Children in Monroe County: A need assessment, projection, model and next steps." Monroe County Department of Health.
- City of Rochester. 2004. "The City of Rochester Comprehensive Annual Financial Report: Year ending June 30, 2004." The City of Rochester.
- City of Rochester. 2005a. Earth Systems Research Institute. City of Rochester GIS Data.
- City of Rochester. 2005b. "Draft Consolidated Community Development Plan. Strategic Plan 2005-06 thru 2009-10. Annual Action Plan 2005-06." The City of Rochester.
- City of Rochester. 2005c. "City LEAD Program Report."
- Clicquenois, Todd. May 26, 2005. Personal communication, telephone conversation with Matt Butwin, Ecology & Environment, Inc. Lancaster, New York.
- Coalition to Prevent Lead Poisoning. 2004. "Fund the Fix Work Group Report."
- Database: NYS Real-Property Tax Service, 2005 Service: New York State Office of Real Property Service.
- D'Allesandro, Mary, L. Berkowitz, B. Beyerbach. April 19, 2005. Personal communication, meeting between Landlords Association and Matt Butwin and Michael Kane. Rochester, New York.
- Elliot, Richard, L. Houston, R. Shrader, D. Hyde, and J. Felsen. April 19, 2005. Personal communication, meeting between Monroe County Department of Public Health and Matt Butwin, and Michael Kane. Rochester, New York.
- FLHSA African American Health Status Task Force. 2003. "What's Goin' On."
- Ford, D.A. and M. Gilligan. 1988. "The Effect of Lead Abatement Laws on Rental Property Values." *AREUEA Journal*. 16(1): 84-94.
- Frank, Monte. n.d. "An Introduction to Affordable Housing Development." New York State Housing Trust Fund Corporation.

8. References

- Galke, W, S. Clark, J. Wilson, D. Jacobs, P. Succop, S. Dixon, B. Bornschein, P. McLaine, and M. Chen. 2001. "Evaluation of the HUD Lead Hazard Control Grant Program: Early Overall Findings." *Environmental Research*. 86: 149-156.
- Hanley, Mike., J. Roby-Davison, R. Spezio, B. Hetherington, and R. Kennedy. April 18, 2005. Personal communication, meeting between Coalition to Prevent Lead Poisoning and Matt Butwin, Frank Stephen, and Dan Castle. Rochester, New York.
- Home Properties. 2005. "Home Properties Reports First Quarter 2005 Results; FFO per Share Exceeds Wall Street's Mean Estimate." www.homeproperties.com/index.asp. June 2005.
- Housing Council, The. 2000. "Residential Foreclosure Action Plan."
- Houston, Lee, D. Hyde, J. Felsen, and F. Mirabella. May 13, 2005. Personal communication, meeting between Monroe County Department of Public Health and Matt Butwin and Michael Kane. Rochester, New York.
- Kemper, A.R., W.C. Bordley, and S.M. Downs. 1998. "Cost-effectiveness analysis of lead poisoning screening strategies following the 1997 guidelines of the Centers for Disease Control and Prevention." *Arch. Pediatric Adolescence Medicine*. 152: 1202-1208.
- Kirkmire, Gary. 2005. E-mail correspondence from Mr. Kirkmire of the City of Rochester, November 22, 2005, forwarded to E & E by Bob Barrows. Rochester, New York
- Monroe County Department of Public Health. 2005. Monroe County Public Health Department Data Package, Rochester, New York
- Landrigan, P.J., C.B. Schechter, J.M. Lipton, M.C. Fahs, and J. Schwartz. 2002. "Environmental pollutants and disease in American children: Estimates of morbidity, mortality, and costs for lead poisoning, asthma, cancer, and developmental disabilities." *Environmental Health Perspectives*. 110(7): 721-728.
- Lanphear B.P., Byrd RS, Auinger P, Schaffer S.J. 1998. "Community characteristics associated with children's blood lead levels." *Pediatrics*. 101:264-271
- Lanphear, B.P., R. Hornung, and M. Ho. 2005. "Screening Housing to Prevent Lead Toxicity in Children." *Public Health Reports*. 120:305-310.

8. References

- Lanphear, B.P., R. Hornung, M. Ho, C.R. Howard, S. Eberle, and K. Knauf. 2002. "Environmental lead exposure during early childhood." *The Journal of Pediatrics*. 140(1): 40-47.
- National Safety Council. 2004. "Lead Poisoning." <http://www.nsc.org/library/facts/lead.htm>. May 2005.
- Needleman, H.L. 2004. "Lead Poisoning." *Annual Review of Medicine*. 55:209-222.
- Needleman, H.L., A. Schell, D. Bellinger, A. Leviton, E. Allred. 1990. "The long-term effects of exposure to low doses of lead in childhood: An 11-Year Follow-up report." *The New England Journal of Medicine*. 322(2): 83-88.
- Needleman, H.L., C. Gunnoe, A. Leviton, R. Reed, H. Peresie, C. Maher, and P. Barrett. 1979. "Deficits in physiologic and classroom performance of children with elevated dentine lead levels." *The New England Journal of Medicine*. 300(13):689-695.
- Needleman, H.L., J.A. Riess, M. J. Tobin, G.E. Biesecker, J.B. Greenhouse. 1996. "Bone lead levels and delinquent behavior." *JAMA*. 275(5):363-369.
- Needleman, H.L., C. McFarland, R.B. Ness, S.E. Fienberg, and M.J. Tobin. 2000. "Bone lead levels in adjudicated delinquents: A case-control study." Pediatric Academic Societies and American Academy of Pediatrics Joint Meeting.
- New York State Department of Health. 2001. *Promoting Lead Free Children in New York State: A Report of Lead Exposure Status Among New York Children, 2000-2001*.
- New York State Department of Health. 2004. "Eliminating Childhood Lead Poisoning In New York State by 2010." www.health.state.ny.us/nysdoh/enviro/lead/finalplanstrat.htm. May, 2005
- McLaine, Pat, MPH, and National Center for Healthy Housing. n.d. "The Milwaukee Pilot Program: An Evaluation of the Implementation Process." Milwaukee Health Department and Battelle Memorial Institute.
- Presidential Task Force on Environment Health Risks and Safety Risk to Children. 2000. "Eliminating Lead Poisoning: A Federal Strategy targeting Lead Paint Hazards."
- Rochester Housing Authority. 2005. "Agency Plan FY 2006- Draft"

8. References

- Savage, Howard. 1998. "What We Have Learned About Properties, Owners, and Tenants from the 1995 Property Owners and Managers Survey." *Census Bureau*. 121:98-1
- Schwartz, Joel. 1994. "Societal Benefits of Reducing Lead Exposure." *Environmental Research*. 66: 105-124.
- Smith Korfmacher, Katrina. 2003. "Long-term costs of lead poisoning: How much can New York save by stopping lead?" University of Rochester.
- Tonovitz, Michael. April 18, 2005. Personal communication, meeting held between Rochester Housing Authority and Matt Butwin, Frank Stephen and Dan Castle. Rochester, New York.
- United States Census Bureau. 2005. "U.S. Census Bureau." www.census.gov. May 2005.
- United States Department of Housing and Urban Development. 2005a. "Healthy Homes and Lead Hazard Control." <http://www.hud.gov/offices/lead/index.cfm>. June 2005.
- United States Department of Housing and Urban Development. 2005b. HUD USER Datasets. <http://www.huduser.org/datasets/cp.html>. November 2005.
- United States Environmental Protection Agency. 2005a. "Lead in Paint, Dust, and Soil." www.epa.gov/opptintr/lead/leadinfo.htm. May 2005
- United States Environmental Protection Agency. 2005b. "EPA Region 2 Certified Lead Paint Evaluation Firms."
- United States Environmental Protection Agency. 2005c. "EPA Region 2 Certified Lead Paint Abatement Firms."

9

List of Preparers

Ecology and Environment, Inc.

Castle, Daniel R., AICP – Contract Manager

M.S., Environmental Science, 1985, State University of New York
College of Environmental Science and Forestry
B.A., 1983, Biology, Hartwick College

Kane, Michael F. – Project Manager

M.U.P., 1995, Urban Planning, State University of New York at Buffalo
B.A., 1992, Urban and Public Policy Studies, cum laude, State University
of New York at Buffalo

Butwin, Matthew J. – Socioeconomist

B.S., 1999, Applied Economics/Business Management, College of
Agriculture and Life Sciences, Cornell University

Miller, Ian R. – Chief Economist

M.S., Economics, 1992, Rensselaer Polytechnic Institute
B.A., Economics/Political Science, 1984, magna cum laude, State
University of New York at Buffalo

Santacrose, Elizabeth R. – Regulatory Expert

J.D., 2002, State University of New York at Buffalo
B.S., 1998, Political Science/Environmental Policy, magna cum laude,
Syracuse University
New York State Bar Certified

Smith, Rachel J. – Environmental Specialist

B.A., 2003, Environmental Studies/Chemistry, State University of New
York at Buffalo

Williams, Cristopher A., PhD – Human Health Specialist

Ph.D., Environmental Toxicology, 1990, University of Wisconsin at
Madison
B.S., Zoology, 1983, University of Wisconsin at Madison



SEQR Documentation



City of Rochester



FAX (585) 428-6059
TDD/Voice 428-6054

William A. Johnson, Jr.
Mayor

City Hall, Room 307-A
30 Church Street
Rochester, New York 14614-1284
(585) 428-7045

POSITIVE DECLARATION

Notice of Intent to Prepare a Draft EIS

Determination of Significance

This notice is issued in accordance with Article 8 of the New York State Environmental Conservation Law and Chapter 48 of the Rochester Municipal Code.

Mayor William A. Johnson, Jr., as lead agency, has determined that the proposed action described below may have a significant impact on the environment and that a Draft Environmental Impact Statement will be prepared.

Action: Municipal Code Amendments: Lead Poisoning Prevention

SEQR Status: Unlisted Action

Scoping: A public scoping process will be conducted, including a public scoping meeting, which will provide opportunities for interested parties to participate.

Description: The City of Rochester is proposing to amend its municipal code to provide for the identification, reduction and control of hazards due to the presence of deteriorated lead-based paint in/on pre-1978 structures, in order to protect residents from exposure and reduce the incidence of lead poisoning.

Reasons Supporting Determination: Public controversy is likely and the EIS process is viewed as an appropriate means of objectively evaluating the impacts of the proposed action. Potential adverse environmental impacts could result from the proposed action which may affect the community and its character, including: a reduced supply of affordable housing; the displacement of families with small children; depressed property values; increased numbers of vacant residential properties; and the impairment of the character or quality of important historic or architectural properties.



For Further Information:

Contact Person: Robert M. Barrows, Manager of Housing
Address: Bureau of Housing & Project Development
City Hall, Room 028-B
30 Church Street
Rochester, New York 14614
Telephone: (585) 428-6150

This declaration and supporting information is on file and available for public inspection at the City of Rochester's Bureau of Housing & Project Development, Room 028-B, City Hall, 30 Church Street, Rochester, New York.

Distribution: City Council
Mayor's Office
Rochester Environmental Commission
NYS-DEC Environmental Notice Bulletin



617.20
Appendix A
State Environmental Quality Review
FULL ENVIRONMENTAL ASSESSMENT FORM

Purpose: The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

Full EAF Components: The full EAF is comprised of three parts:

- Part 1:** Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.
- Part 2:** Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.
- Part 3:** If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

THIS AREA FOR LEAD AGENCY USE ONLY

DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions

Identify the Portions of EAF completed for this project:



Part 1



Part 2



Part 3

Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- ☐ A. The project will not result in any large and important impact(s) and, therefore, is one which **will not** have a significant impact on the environment, therefore **a negative declaration will be prepared.**
- ☐ B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore **a CONDITIONED negative declaration will be prepared.***
- ☒ C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore **a positive declaration will be prepared.**

*A Conditioned Negative Declaration is only valid for Unlisted Actions

Municipal Code Amendments: Lead Poisoning Prevention

Name of Action

William A. Johnson, Jr. Mayor of the City of Rochester

Name of Lead Agency

William A. Johnson, Jr.

Print or Type Name of Responsible Officer in Lead Agency

Mayor

Title of Responsible Officer

William A. Johnson, Jr.
Signature of Responsible Officer in Lead Agency

Robert M. Barron
Signature of Preparer (If different from responsible officer)

February 7, 2005
Date



City of Rochester



Inter-Departmental Correspondence

To: Lois Giess, City Council President
From: William A. Johnson, Jr., Mayor
Date: January 18, 2005
Subject: Environmental Review - Lead Agency Notification

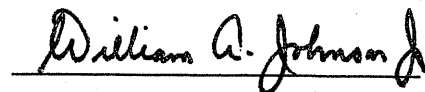
Pursuant to the terms of the Lead Agency Agreement authorized by Ordinance #2004-15, City Council is hereby advised of the proposed action noted below. The Administration proposes to serve as Lead Agency for the purpose of conducting an environmental assessment of this action. Should the Council wish to suspend the Lead Agency Agreement for this action, notification should be made to this office by January 28, 2005. An Environmental Assessment Form is attached for your information.

Proposed Action: City Code Amendments:
Alternative 1 - Introductory No. 20: (Chapter 60) Lead Poisoning Prevention Code
Alternative 2 - Introductory No. 21: (Chapter 90) Lead-Based Paint Poisoning Prevention

SEQR Classification: ☐ Type I ☒ Unlisted

Applicant/Initiator: Introductory No. 20 - Councilman Mains
Introductory No. 21 - Administration

Involved Agencies: Mayor
City Council



Attachments:
Environmental Assessment Form

C:\WINDOWS\Temp\mayor and city council.wpd



LONG FORM

Project I.D. (File) No(s).: _____
 Project Title: _____
 Date Filed: _____
 Lead Agency: _____
 Review By: _____
 Determination Recommendation: ☐ 1. No significant impact
 ☐ a. No mitigation period required
 ☐ b. Mitigation period required
 ☐ 2. EIS required

Fee Paid: \$_____ (have form stamped or attach receipt)

1/18/05
Date

- 1 -

(Citywide activity, not site specific)

C. N/A Property location is on N S E W (circle) side of _____
between _____ and _____
Street Address (if any): _____

D. Tax Account No. (Assessor): N/A

E. Section-Block-Lot No. (Maps & Records): N/A

F. Estimated development cost \$ N/A

G. Project Character N/A

1. Total project area (acres or sq. ft.) _____ or length (miles) _____
2. Number of buildings _____ height/stories _____ sq. ft. _____
3. Number of attached residential units _____ detached _____
4. Total floor area of institutional, commercial or industrial uses (specify) _____
5. Existing zoning district _____ proposed district _____
6. Total land surface area (sq. ft.) of project site which is:

	Presently	Upon Completion
Buildings		
Parking Areas, Road, Driveways		
Lawn		
Brush		
Wooded (mature tree cover)		
Freshwater Wetland		
Water Body		
Unvegetated (rock, earth fill, paved surface, etc.)		
Total		

7. What is the anticipated period(s) of construction? _____

3. SITE INFORMATION N/A

A. Describe the types and locations of soils, using a site map. Give the USDA-SCS soil classification types, if known.

B. What is the depth (in feet) to:

1. Groundwater _____ minimum _____ average _____
2. Bedrock _____ minimum _____ average _____

C. **Topography and Grading.** Attach copy of the grading plan.

1. Percent of site previously graded _____
2. Area to be graded (acres or sq. ft.) _____
3. Slope classification of project site;

<u>Slope</u>	<u>Existing Topography</u>	<u>After Grading</u>
0-14%	_____ %	_____ %
15-24	_____ %	_____ %
25% or over	_____ %	_____ %
Total	100%	100%
4. Volume of cutting _____ cubic yards, maximum cut slope ratio _____ and height _____
5. Volume of fill _____ cubic yards, maximum fill slope ratio _____ and height _____
6. Volume of soil imported or exported (specify) _____
If exported, identify area of disposal _____
7. Could drainage from the site cause erosion or siltation to adjacent areas?
☐ Yes ☐ No If yes, explain. _____

8. Describe any physical alteration (e.g. dikes, excavation, fill, stream diversion) of any drainage system and/or lake, stream and wetland. Estimate quantity of material to be dredged and indicate where spoils will be deposited. _____

9. Describe and indicate on a site map the provisions to control erosion and storm water run-off. Include size and location of any basins and discharge points. _____

10. Will construction activity occur in any area having 15% slope or greater?
☐ Yes ☐ No If yes, depict the area of 15% or greater slope and the area of construction activity on the attached site plan. _____

11. Is there evidence of significant erosion or slope slippage at the site?
☐ Yes ☐ No If yes, describe _____

D. What land forms are on the project site (e.g. cliffs, ravines, hills, glacial formations, ridges, etc.)? _____

4. **TRANSPORTATION CHARACTERISTICS** - NOT APPLICABLE

A. **Vehicular trips (one-way) generated by the project:**

	Vehicles less than 10,000 lbs. GVW		Vehicles of 10,000 lbs. GVW or greater	
	Existing	Upon completion	Existing	Upon completion
Peak a.m. hour # Trips	_____ a.m. to _____ a.m.	_____ a.m. to _____ a.m.	_____ a.m. to _____ a.m.	_____ a.m. to _____ a.m.
Peak p.m. hour # Trips	_____ p.m. to _____ p.m.	_____ p.m. to _____ p.m.	_____ p.m. to _____ p.m.	_____ p.m. to _____ p.m.
Average daily traffic				

B. **Traffic Patterns** N/A

1. What streets/roads will receive increased traffic? (For each road indicate the current average daily traffic (ADT) and increase in ADT contributed by the project.) Also include the directional distribution of the ADT on the affected roads.

Street

Presently

Upon Completion

2. Describe any new transportation patterns which will arise because of the project. The impact the additional traffic will have on the operating capacity of a specific street should be noted.

C. **Employment and User Information** N/A

1. Facilities to be open from _____ a.m. to _____ p.m. on weekdays; from _____ a.m. to _____ p.m. on weekends.
2. Number of total employees (both existing and estimated future) _____
Each shift (identify by shift hours) _____
3. Number of clients, customers or users/average weekday (both existing and estimated future) _____

D. Parking Information (N/A)

1. Off street parking spaces:
 - a. Total existing _____ total upon completion _____
 - b. ☐ On-site ☐ Off-site
2. If the project will affect on-street parking, identify the number of affected spaces and their location: _____

E. Public Transportation (N/A)

1. Is the project site/area served by public transportation?
☐ Yes ☐ No If yes, identify provider and route members _____
2. If possible, estimate the number of employees, clients and customers using public transportation _____

F. Street System Modifications (N/A)

1. Does the project involve a street widening? ☐ Yes ☐ No If yes:
 - a. How many feet on each side? _____
 - b. Will the project remove any portion of the sidewalk or planting strip?
☐ Yes ☐ No If yes, describe the dimensions of the project, comparing existing sidewalk and planting strips widths and those proposed _____
 - c. If additional right-of-way must be acquired, describe how many feet and the current use and condition of the area being taken on a separate sheet. _____
2. Does the project require the temporary closing of a street? ☐ Yes ☐ No
 - a. If yes, describe the period of time it will be closed and the detour routing on a separate sheet. _____
 - b. If only a partial closing (one or more travel lanes), describe. _____
3. Does the project involve a street abandonment? ☐ Yes ☐ No
If yes, describe _____
4. Does the project involve construction of a new street? ☐ Yes ☐ No
5. Does the project require (directly or indirectly) any other capital improvement to the existing street system? ☐ Yes ☐ No If yes, describe on a separate sheet. _____

5. ENVIRONMENTAL INDICATORS

- A. Are any of the following land uses or environmental resources either to be affected by the proposal or located within or adjacent to the project site(s)? Check appropriate box for every item of the following checklist:

	Yes	No	Unknown		Yes	No	Unknown
a. Industrial	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	t. Freshwater Wetlands designated by DEC	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Commercial	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	u. Floodplain as designated by Federal Insurance Administration	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Office	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	v. Within 100' of Genesee River, River Gorge, Barge Canal, Lake Ontario	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Residential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	w. Scenic views or vistas of importance to the community.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Utilities	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	x. Wildlife, including habitats	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Parking	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	y. Air quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Streets	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	z. Historical, archaeological sites (listed on National Register or eligible for listing) and/or designated City Landmarks/Preservation District	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Parks	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
i. Hospitals	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
j. Schools	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
k. Open Spaces	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
l. Steep Slopes (15% or greater)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
m. Mature trees/Shoreline	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
n. Erodible Soils	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
o. Energy Supplies	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
p. Hazardous Materials	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
q. Natural Drainage Course, Stream or other water body	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
r. Ambient noise levels	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				

- B. Are any facilities under your ownership, lease, or supervision to be utilized in the accomplishment of this project, either listed or under consideration for listing on the Environmental Protection Agency's List of Violating Facilities? ☐ Yes ☒ No

6. ENVIRONMENTAL QUALITY FACTORS

A. Air Quality

- Identify the types and quantities of air emissions to be produced as a result of the project, including stationary sources on the site and mobile sources attributable to the project (attach a separate sheet).
- Indicate the measures to be taken to control air emissions (attach a separate sheet).
HEPA vacuum attachments to power tools will reduce particulates.
- Will the project routinely produce odors? ☐ Yes ☒ No
If odors will occur, indicate who will be affected _____
- Will the project generate dust during and/or after construction? ☐ Yes ☒ No
If dust will occur, identify control measures _____

B. Noise and Vibration

1. Will the project generate noise which could be heard outside the project area?
[] Yes [☒] No If yes, where _____
2. Will the project generate noise exceeding ambient levels (both during and after construction)? [] Yes [☒] No If yes, identify distances to noise sensitive land uses and existing and projected decibel levels at project boundary:
3. Will the project result in vibration being transmitted off the site? [] Yes [☒] No If yes, identify distances to affected sites, their use, and the levels of vibration:

C. Waste Generation/Disposal

1. Describe the type and amount of solid waste that will be generated and the method and location of disposal (describe amount in pounds or cubic yards per week).
Any amounts of waste generation are anticipated to be de minimus and can be accommodated by existing waste disposal systems. Wastes generated by abatement contractors will be regulated by the US-EPA.
2. Will the project result in the use of discharge of hazardous materials/wastes?
[] Yes [☒] No If yes, attach a discussion of the types of materials/wastes, methods for control and any special permits required. Also,
 - a. What type of material? _____
 - b. How often? _____
3. Liquid Waste
 - a. Will the project involve the disposal of liquid waste? [☒] Yes [] No
 - b. Sanitary sewage discharge (gallons per day) _____
 - c. Will industrial waste be discharged? [] Yes [☒] No
 1. If yes, describe the daily average concentration of the chemical compounds discharged _____
 2. Will the industrial waste receive pretreatment prior to discharge?
[] Yes [] No
 3. Describe the means of waste disposal and points of discharge.
 4. Does the project involve demolition of a building or structure?
[] Yes [☒] No If yes:
 - a. Describe the content of the demolition debris and the disposal site.
 - b. Does the structure/building contain asbestos?
[] Yes [] No If yes:
 1. Describe the procedures to be followed in removal of the asbestos _____
 2. Identify the site where the asbestos will be disposed _____

D. **Miscellaneous**

1. Total anticipated water usage per day (gallons/day) unknown
Describe any sources of water supply other than the municipal system, e.g. wells, streams, surface impoundments, etc.

2. **Energy Use**

a. Will the project result in an increase in energy use? [] Yes [☒] No
If yes, indicate type(s) and the amount of increase:

b. Are adequate energy sources and utilities now available to service the project? [] Yes [] No If not, what additional utilities will be required?

7. Identify **all** governmental actions (i.e. funding, permits, approvals, leases, etc.) necessary for project implementation:

<u>Level of Government & Agency</u>	<u>Type of Action</u>	<u>Status</u>	<u>Project ID#</u>
---	-----------------------	---------------	--------------------

Federal	not applicable		
---------	----------------	--	--

State	not applicable		
-------	----------------	--	--

Local	City Council	Adoption	Pending
-------	--------------	----------	---------

	Mayor	Approval of legislation	Pending
--	-------	-------------------------	---------

ENTRUST DUCTORIES #
20 & 21 - 2005

8. **SUMMARY OF ISSUES**

List the **potential environmental impacts/issues** as identified by responses to sections 3, 4, 5 and 6 above. Discuss alternatives and mitigation measures for these issues.

See attached

**Continuation
of
Environmental Assessment Form**

Action: Adoption of amendments to the City Code - Lead-Based Paint Poisoning Prevention

8. SUMMARY OF ISSUES

Introductories #20 (Councilman Mains) and #21 (Mayor Johnson) are considered alternative approaches to addressing the public health threat posed by uncontrolled lead-based paint hazards. It is anticipated that both of these alternatives, as well as additional alternatives, will be fully evaluated to assess their potential adverse environmental impacts and that appropriate mitigation measures will be identified through the preparation of an environmental impact statement.

There are likely to be overwhelmingly positive impacts on the public's health, i.e. reductions in the incidence of lead-based paint poisoning, however, it is very likely that there will be public controversy related to other potential environmental impacts of this action.

The proposed action will impact pre-1978 structures and associated land uses if they are adjacent to residential properties. Given the relatively depressed condition of the real estate market in many city neighborhoods, it is possible that the imposition of additional property maintenance and repair requirements on the owners of pre-1978 structures could result in unintended adverse consequences.

The proposed action could result in the owners and/or operators of pre-1978 structures to reconsider their continued ownership and operation. Such uncertainty may result in a further destabilization of property values in impacted neighborhoods.

In particular, the owners/operators of pre-1978 rented residential properties could find the requirements too onerous and burdensome, given the value of their properties. There is the potential that the existing shortage of safe, sanitary and decent affordable rental housing for low-income households could be exacerbated if such owners were to remove their properties from the market.

Existing occupants of pre-1978 structures could be displaced as the result of decisions made by owners to remove properties from the market, which could impact certain neighborhoods to the extent that their social fabric erodes and they begin to decline. It is also possible that these owners could decide not to renew leases in the affected properties if the tenants have children. While it is illegal under state and federal fair housing laws to decline to rent properties to households with children, such discrimination is known to exist in the community.

While there are certain economic incentives available to mitigate against the possibility of these events occurring, i.e. the availability of financial assistance from the City to property owners to

aid in reducing lead hazards, Rochester's housing values are such that not all property owners are willing to undertake the necessary improvements to their properties.

According to the 2000 U.S. Census, Rochester had a housing vacancy rate of nearly 11% and it is likely that this rate has not declined over that past few years. If properties are removed from the market and remain vacant for prolonged periods of time, the character of the affected neighborhoods could be adversely effected. An increase in the number of vacant properties correlates with declining property values. An April, 2000 study of mortgage foreclosure in the City prepared by the Housing Council found that properties which had been foreclosed upon (and presumably became vacant) experienced significantly reduced values (2.3 times lower resale price in the 14621 neighborhood) than properties that had not been foreclosed upon. In addition, that study found that properties for sale which were located proximate to foreclosed properties (presumed vacant) experienced declines in market price (14% less in the 19th Ward) compared to houses sold where there were no foreclosed (vacant) properties.

Owners of older properties, some of which may be considered historic or architecturally significant and, therefore, of importance to the community, may also find the requirements burdensome and seek to dispose of these properties, thus placing such properties in jeopardy of becoming unstable in their ownership and causing a reduction in their value.

The requirements of the proposal could result in owners of historic and architecturally significant properties choosing to replace building components that are coated with lead-based paint with other materials that may not be in keeping with the historic or architectural character of the property, thus impacting the integrity of such properties.

Thus, it would appear that adverse impacts could result from the proposed action which have yet to be fully explored and quantified, i.e. Community Character and Historic Resources at a minimum.

PART 2 - PROJECT IMPACTS AND THEIR MAGNITUDE

Responsibility of Lead Agency

General Information (Read Carefully)

- In completing the form the reviewer should be guided by the question: Have my responses and determinations been **reasonable?** The reviewer is not expected to be an expert environmental analyst.
- The **Examples** provided are to assist the reviewer by showing types of impacts and wherever possible the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site other examples and/or lower thresholds may be appropriate for a Potential Large Impact response, thus requiring evaluation in Part 3.
- The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
- The number of examples per question does not indicate the importance of each question.
- In identifying impacts, consider long term, short term and cumulative effects.

Instructions (Read carefully)

- a. Answer each of the 20 questions in PART 2. Answer **Yes** if there will be **any** impact.
- b. **Maybe** answers should be considered as **Yes** answers.
- c. If answering **Yes** to a question then check the appropriate box(column 1 or 2)to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.
- d. Identifying that an Impact will be potentially large (column 2) does not mean that it is also necessarily **significant**. Any large impact must be evaluated in PART 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.
- e. If reviewer has doubt about size of the impact then consider the impact as potentially large and proceed to PART 3.
- f. If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the **Yes** box in column 3. A **No** response indicates that such a reduction is not possible. This must be explained in Part 3.

1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

Impact on Land

1. Will the Proposed Action result in a physical change to the project site?

NO ☒ YES ☐

Examples that would apply to column 2

- | | | | | |
|--|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction on land where the depth to the water table is less than 3 feet. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction of paved parking area for 1,000 or more vehicles. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction that will continue for more than 1 year or involve more than one phase or stage. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

- | | 1
Small to
Moderate
Impact | 2
Potential
Large
Impact | 3
Can Impact Be
Mitigated by
Project Change |
|---|-------------------------------------|-----------------------------------|--|
| • Construction or expansion of a sanitary landfill. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Construction in a designated floodway. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.)

☒ NO ☐ YES

- | | 1
Small to
Moderate
Impact | 2
Potential
Large
Impact | 3
Can Impact Be
Mitigated by
Project Change |
|------------------------|-------------------------------------|-----------------------------------|--|
| • Specific land forms: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

Impact on Water

3. Will Proposed Action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL)

☒ NO ☐ YES

Examples that would apply to column 2

- | | | | |
|--|--------------------------|--------------------------|--|
| • Developable area of site contains a protected water body. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Dredging more than 100 cubic yards of material from channel of a protected stream. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Extension of utility distribution facilities through a protected water body. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Construction in a designated freshwater or tidal wetland. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

4. Will Proposed Action affect any non-protected existing or new body of water?

☒ NO ☐ YES

Examples that would apply to column 2

- | | | | |
|--|--------------------------|--------------------------|--|
| • A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Construction of a body of water that exceeds 10 acres of surface area. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

1
Small to
Moderate
Impact

2
Potential
Large
Impact

3
Can Impact Be
Mitigated by
Project Change

5. Will Proposed Action affect surface or groundwater quality or quantity?

☒ NO

☐ YES

Examples that would apply to column 2

- | | | | | |
|--|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action will require a discharge permit. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action requires use of a source of water that does not have approval to serve proposed (project) action. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action requires water supply from wells with greater than 45 gallons per minute pumping capacity. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction or operation causing any contamination of a water supply system. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will adversely affect groundwater. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Liquid effluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action would use water in excess of 20,000 gallons per day. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will likely cause siltation or other discharge into an existing body of water to the extent that there will be an obvious visual contrast to natural conditions. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will require the storage of petroleum or chemical products greater than 1,100 gallons. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow residential uses in areas without water and/or sewer services. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

1
Small to
Moderate
Impact

2
Potential
Large
Impact

3
Can Impact Be
Mitigated by
Project Change

6. Will Proposed Action alter drainage flow or patterns, or surface water runoff?

☒ NO

☐ YES

Examples that would apply to column 2

• Proposed Action would change flood water flows

☐
☐

☐ Yes

☐ No

• Proposed Action may cause substantial erosion.

☐
☐

☐ Yes

☐ No

• Proposed Action is incompatible with existing drainage patterns.

☐
☐

☐ Yes

☐ No

• Proposed Action will allow development in a designated floodway.

☐
☐

☐ Yes

☐ No

• Other impacts:

☐
☐

☐ Yes

☐ No

IMPACT ON AIR

7. Will Proposed Action affect air quality?

☒ NO

☐ YES

Examples that would apply to column 2

• Proposed Action will induce 1,000 or more vehicle trips in any given hour.

☐
☐

☐ Yes

☐ No

• Proposed Action will result in the incineration of more than 1 ton of refuse per hour.

☐
☐

☐ Yes

☐ No

• Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour.

☐
☐

☐ Yes

☐ No

• Proposed Action will allow an increase in the amount of land committed to industrial use.

☐
☐

☐ Yes

☐ No

• Proposed Action will allow an increase in the density of industrial development within existing industrial areas.

☐
☐

☐ Yes

☐ No

• Other impacts:

☐
☐

☐ Yes

☐ No

IMPACT ON PLANTS AND ANIMALS

8. Will Proposed Action affect any threatened or endangered species?

☒ NO

☐ YES

Examples that would apply to column 2

• Reduction of one or more species listed on the New York or Federal list, using the site, over or near the site, or found on the site.

☐
☐

☐ Yes

☐ No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Removal of any portion of a critical or significant wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

9. Will Proposed Action substantially affect non-threatened or non-endangered species?

☒ NO ☐ YES

Examples that would apply to column 2

- | | 1
Small to
Moderate
Impact | 2
Potential
Large
Impact | 3
Can Impact Be
Mitigated by
Project Change |
|--|-------------------------------------|-----------------------------------|--|
| • Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

--

IMPACT ON AGRICULTURAL LAND RESOURCES

10. Will Proposed Action affect agricultural land resources?

☒ NO ☐ YES

Examples that would apply to column 2

- | | 1
Small to
Moderate
Impact | 2
Potential
Large
Impact | 3
Can Impact Be
Mitigated by
Project Change |
|--|-------------------------------------|-----------------------------------|--|
| • The Proposed Action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Construction activity would excavate or compact the soil profile of agricultural land. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • The Proposed Action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• The Proposed Action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

IMPACT ON AESTHETIC RESOURCES

11. Will Proposed Action affect aesthetic resources? (If necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.)

☒ NO ☐ YES

Examples that would apply to column 2

- | | | | |
|---|--------------------------|--------------------------|--|
| • Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Project components that will result in the elimination or significant screening of scenic views known to be important to the area. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES

12. Will Proposed Action impact any site or structure of historic, prehistoric or paleontological importance?

☐ NO ☒ YES

Examples that would apply to column 2

- | | | | |
|---|--------------------------|-------------------------------------|---|
| • Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places. | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| • Any impact to an archaeological site or fossil bed located within the project site. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

- | | 1
Small to
Moderate
Impact | 2
Potential
Large
Impact | 3
Can Impact Be
Mitigated by
Project Change |
|------------------|-------------------------------------|-----------------------------------|--|
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

IMPACT ON OPEN SPACE AND RECREATION

13. Will proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities?

☒ NO ☐ YES

Examples that would apply to column 2

- | | | | |
|---|--------------------------|--------------------------|--|
| • The permanent foreclosure of a future recreational opportunity. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • A major reduction of an open space important to the community. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

IMPACT ON CRITICAL ENVIRONMENTAL AREAS

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6NYCRR 617.14(g)?

☒ NO ☐ YES

List the environmental characteristics that caused the designation of the CEA.

Examples that would apply to column 2

- | | | | |
|---|--------------------------|--------------------------|--|
| • Proposed Action to locate within the CEA? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will result in a reduction in the quantity of the resource? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will result in a reduction in the quality of the resource? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will impact the use, function or enjoyment of the resource? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

1
Small to
Moderate
Impact

2
Potential
Large
Impact

3
Can Impact Be
Mitigated by
Project Change

IMPACT ON TRANSPORTATION

15. Will there be an effect to existing transportation systems?

☒ NO

☐ YES

Examples that would apply to column 2

- Alteration of present patterns of movement of people and/or goods.
- Proposed Action will result in major traffic problems.
- Other impacts:

☐
☐

☐ Yes

☐ No

☐
☐

☐ Yes

☐ No

☐
☐

☐ Yes

☐ No

IMPACT ON ENERGY

16. Will Proposed Action affect the community's sources of fuel or energy supply?

☒ NO

☐ YES

Examples that would apply to column 2

- Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality.
- Proposed Action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use.
- Other impacts:

☐
☐

☐ Yes

☐ No

☐
☐

☐ Yes

☐ No

☐
☐

☐ Yes

☐ No

NOISE AND ODOR IMPACT

17. Will there be objectionable odors, noise, or vibration as a result of the Proposed Action?

☒ NO

☐ YES

Examples that would apply to column 2

- Blasting within 1,500 feet of a hospital, school or other sensitive facility.
- Odors will occur routinely (more than one hour per day).
- Proposed Action will produce operating noise exceeding the local ambient noise levels for noise outside of structures.
- Proposed Action will remove natural barriers that would act as a noise screen.
- Other impacts:

☐
☐

☐ Yes

☐ No

☐
☐

☐ Yes

☐ No

☐
☐

☐ Yes

☐ No

☐
☐

☐ Yes

☐ No

☐
☐

☐ Yes

☐ No

1
Small to
Moderate
Impact

2
Potential
Large
Impact

3
Can Impact Be
Mitigated by
Project Change

IMPACT ON PUBLIC HEALTH

18. Will Proposed Action affect public health and safety?

☐ NO ☒ YES

- | | | | |
|--|--------------------------|--------------------------|--|
| • Proposed Action may cause a risk of explosion or release of hazardous substances (i.e. oil, pesticides, chemicals, radiation, etc.) in the event of accident or upset conditions, or there may be a chronic low level discharge or emission. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action may result in the burial of "hazardous wastes" in any form (i.e. toxic, poisonous, highly reactive, radioactive, irritating, infectious, etc.) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Storage facilities for one million or more gallons of liquefied natural gas or other flammable liquids. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action may result in the excavation or other disturbance within 2,000 feet of a site used for the disposal of solid or hazardous waste. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

Action is expected to reduce the incidence of lead poisoning, a positive impact.

IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD

19. Will Proposed Action affect the character of the existing community?

☐ NO ☒ YES

Examples that would apply to column 2

- | | | | |
|---|--------------------------|-------------------------------------|---|
| • The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • The municipal budget for capital expenditures or operating services will increase by more than 5% per year as a result of this project. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will conflict with officially adopted plans or goals. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will cause a change in the density of land use. | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will replace or eliminate existing facilities, structures or areas of historic importance to the community. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Development will create a demand for additional community services (e.g. schools, police and fire, etc.) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

- | | 1
Small to
Moderate
Impact | 2
Potential
Large
Impact | 3
Can Impact Be
Mitigated by
Project Change |
|--|-------------------------------------|-------------------------------------|--|
| • Proposed Action will set an important precedent for future projects. | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will create or eliminate employment. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

20. Is there, or is there likely to be, public controversy related to potential adverse environment impacts?
- ☐ NO ☒ YES

If Any Action in Part 2 Is Identified as a Potential Large Impact or If you Cannot Determine the Magnitude of Impact, Proceed to Part 3

ENVIRONMENTAL ASSESSMENT FORM

PART 3

EVALUATION OF THE IMPORTANCE OF IMPACTS

Action: Municipal Code Amendments: Lead Poisoning Prevention

Impact Area: Character of Community or Neighborhood

Description:

The proposed action will impact pre-1978 structures and associated land uses if they are adjacent to residential properties. Given the relatively depressed condition of the real estate market in many city neighborhoods, it is possible that the imposition of additional property maintenance and repair requirements on the owners of pre-1978 structures could result in unintended adverse consequences.

The proposed action could result in the owners and/or operators of pre-1978 structures to reconsider their continued ownership and operation. Such uncertainty may result in a further destabilization of property values in impacted neighborhoods.

In particular, the owners/operators of pre-1978 rented residential properties could find the requirements too onerous and burdensome, given the value of their properties. There is the potential that the existing shortage of safe, sanitary and decent affordable rental housing for low-income households could be exacerbated if such owners were to remove their properties from the market.

Existing occupants of pre-1978 structures could be displaced as the result of decisions made by owners to remove properties from the market, which could impact certain neighborhoods to the extent that their social fabric erodes and they begin to decline. It is also possible that these owners could decide not to renew leases in the affected properties if the tenants have children. While it is illegal under state and federal fair housing laws to decline to rent properties to households with children, such discrimination is known to exist in the community.

According to the 2000 U.S. Census, Rochester had a housing vacancy rate of nearly 11% and it is likely that this rate has not declined over that past few years. If properties are removed from the market and remain vacant for prolonged periods of time, the character of the affected neighborhoods could be adversely effected. An increase in the number of vacant properties correlates with declining property values. An April, 2000 study of mortgage foreclosure in the City prepared by the Housing Council found that properties which had been foreclosed

upon (and presumably became vacant) experienced significantly reduced values (2.3 times lower resale price in the 14621 neighborhood) than properties that had not been foreclosed upon. In addition, that study found that properties for sale which were located proximate to foreclosed properties (presumed vacant) experienced declines in market price (14% less in the 19th Ward) compared to houses sold where there were no foreclosed (vacant) properties.

Potential Mitigation:

The City could be called upon to establish a fund to assist the owners of affected properties in the required inspection and assessment.

The City has established economic incentives to mitigate against the possibility of these events occurring, i.e. the availability of financial assistance from the City to property owners to aid in reducing lead hazards, however, housing values are such that not all property owners are willing to undertake the necessary improvements to their properties.

Importance of Impact:

These are important impacts because the probability of their occurring and the extent to which they may occur cannot be easily determined. Further evaluation is warranted. Known objections to the action have cited such concerns.

ENVIRONMENTAL ASSESSMENT FORM

PART 3

EVALUATION OF THE IMPORTANCE OF IMPACTS

Action: Municipal Code Amendments: Lead Poisoning Prevention

Impact Area: Historic and Architectural Resources

Description: Owners of older properties, some of which may be considered historic or architecturally significant and, therefore, of importance to the community, may find the requirements of the proposed code amendments burdensome and seek to dispose of these properties, thus placing such properties in jeopardy of becoming unstable in their ownership and causing a reduction in their value.

The requirements of the proposal could result in owners of historic and architecturally significant properties choosing to replace building components that are coated with lead-based paint with other materials that may not be in keeping with the historic or architectural character of the property, thus impacting the integrity of such properties.

Potential Mitigation:

Eligible properties could be designated as city landmarks and/or preservation districts, thus imposing additional regulatory requirements which would restrict the owners' ability to alter their properties in an inappropriate manner.

The City could be called upon to establish a fund to assist the owners of such properties in the appropriate treatment of their properties.

The use of any state or federal funds to treat such properties will invoke the requirements of the State and National Historic Preservation Acts, thus assuring the appropriate treatment of properties which are listed or eligible for listing on the registers of historic places.

Importance of Impact:

This is an important impact because the probability of it occurring cannot be easily determined; and if properties are altered in an inappropriate manner, the result may be irreversible. There could be objections from property owners if the City sought to designate properties as landmarks or preservation districts.

upon (and presumably became vacant) experienced significantly reduced values (2.3 times lower resale price in the 14621 neighborhood) than properties that had not been foreclosed upon. In addition, that study found that properties for sale which were located proximate to foreclosed properties (presumed vacant) experienced declines in market price (14% less in the 19th Ward) compared to houses sold where there were no foreclosed (vacant) properties.

Potential Mitigation:

The City could be called upon to establish a fund to assist the owners of affected properties in the required inspection and assessment.

The City has established economic incentives to mitigate against the possibility of these events occurring, i.e. the availability of financial assistance from the City to property owners to aid in reducing lead hazards, however, housing values are such that not all property owners are willing to undertake the necessary improvements to their properties.

Importance of Impact:

These are important impacts because the probability of their occurring and the extent to which they may occur cannot be easily determined. Further evaluation is warranted. Known objections to the action have cited such concerns.

ENVIRONMENTAL ASSESSMENT FORM

PART 3

EVALUATION OF THE IMPORTANCE OF IMPACTS

Action: Municipal Code Amendments: Lead Poisoning Prevention

Impact Area: Public Controversy

Description: There is controversy about the extent and degree to which the City should regulate the affected properties.

Potential Mitigation:

The environmental impact statement process is viewed as an appropriate means to identify potential mitigation measures to address concerns about the impact of the action. All interested parties will be afforded the opportunity to suggest potential alternatives and mitigation measures.

Importance of Impact:

This is an important impact because it is the City's desire to provide a structured process for the expression and consideration of opposing views on such an important public policy issue.



City of Rochester



Inter-Departmental Correspondence

To: Lois Giess, City Council President
From: William A. Johnson, Jr., Mayor
Date: January 18, 2005
Subject: Environmental Review - Lead Agency Notification

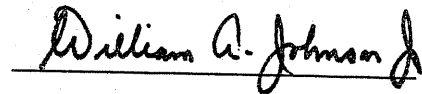
Pursuant to the terms of the Lead Agency Agreement authorized by Ordinance #2004-15, City Council is hereby advised of the proposed action noted below. The Administration proposes to serve as Lead Agency for the purpose of conducting an environmental assessment of this action. Should the Council wish to suspend the Lead Agency Agreement for this action, notification should be made to this office by January 28, 2005. An Environmental Assessment Form is attached for your information.

Proposed Action: City Code Amendments:
Alternative 1 - Introductory No. 20: (Chapter 60) Lead Poisoning Prevention Code
Alternative 2 - Introductory No. 21: (Chapter 90) Lead-Based Paint Poisoning Prevention

SEQR Classification: ☐ Type I ☒ Unlisted

Applicant/Initiator: Introductory No. 20 - Councilman Mains
Introductory No. 21 - Administration

Involved Agencies: Mayor
City Council



Attachments:
Environmental Assessment Form

C:\WINDOWS\Temp\mayor and city council.wpd



From: Bob Barrows
To: Bulletin, Environmental
Date: 2/18/05 12:51PM
Subject: Re: SEQR Submission Form

Please publish the attached notice

>>> "Environmental Bulletin" <enb@gw.dec.state.ny.us> 02/15/05 01:56PM >>>
fill out the form and attach it to an email to the Environmental
Bulletin

>>> "Bob Barrows" <BARROWSB@cityofrochester.gov> 02/15/05 01:22PM >>>
Thank you for the form. How do I submit for ENB publication?

>>> "Environmental Bulletin" <enb@gw.dec.state.ny.us> 02/15/05 11:37AM
>>>

>>> "Bob Barrows" <BARROWSB@cityofrochester.gov> 02/15/05 11:27AM >>>
I require a WordPerfect version of the submission form in order to
submit a SEQR Positive Declaration

Bob Barrows, Manager of Housing
City of Rochester
(585) 428-6150

The ENB SEQRA Notice Publication Form - *Please check all that apply.*

Deadline: Notices must be received by 6 p.m. Wednesday to appear in the following Wednesday's ENB.

<input type="checkbox"/> Negative Declaration - Type I	<input type="checkbox"/> Draft EIS
<input type="checkbox"/> Conditioned Negative Declaration	<input type="checkbox"/> with Public Hearing
<input type="checkbox"/> Draft Negative Declaration	<input type="checkbox"/> Generic
<input checked="" type="checkbox"/> Positive Declaration	<input type="checkbox"/> Supplemental
<input checked="" type="checkbox"/> with Public Scoping Session	<input type="checkbox"/> Final EIS
	<input type="checkbox"/> Generic
	<input type="checkbox"/> Supplemental

DEC Region # 8 County: Monroe Lead Agency: Mayor, City of Rochester

Project Title: Municipal Code Amendments - Lead Poisoning Prevention

Brief Project Description: The City of Rochester is proposing to amend its municipal code to provide for the identification, reduction and control of hazards due to the presence of deteriorated lead-based paint in/on pre-1978 structures, in order to protect residents from exposure and reduce the incidence of lead poisoning.

Project Location:

Address: Citywide City: Rochester State: New York

For Public Scoping Session: Date 02/28/05 Time: 6:30 pm

Location: City Hall, Council Chambers
30 Church Street
Rochester, NY 14614

Contact Person: Robert M. Barrows, Manager of Housing
Phone: (585) 428-6150
Fax: (585) 428-6229
E-mail: barrowsb@cityofrochester.gov

ENB - REGION 8 NOTICES

Completed Applications
Consolidated SPDES Renewals

Negative Declaration

Genesee County - The Town of Byron, as lead agency, has determined that the proposed Town of Byron Water District No. 2 will not have a significant adverse environmental impact. The action involves the Town of Byron developing plans to construct Water District No. 2 along portions of NYS Route 237, Warboys Road, Mechanic Street, Walkers Corners Road and Freeman Road. The project will provide public water to 151 properties in the Town of Byron, including residents of the Hamlet of South Byron and the Pumpkin Hill area. The proposed improvements include the construction of 37,550 feet of 8-inch watermain, which includes 12,050 feet of transmission main within the Town of Stafford. (Note: no residents in the Town of Stafford will be served as part of the proposed project.) Activities include the installation of watermain, fire hydrants, valves, connections, stream and road crossings, excavation and bedding materials and surface restoration. Water will be provided to Water District No. 2 by the Monroe County Water Authority. The project is located on portions of NYS Route 237, Warboys Road, Mechanic Street, Walkers Corners Road and Freeman Road, Towns of Byron and Stafford, Genesee County.

Contact: Richard Glazier, Town of Byron, Route 237, P. O. Box 9, Byron, NY 14422, phone: (585) 548-7123, fax: (585) 548-2812.

Positive Declaration And Public Scoping

Monroe County - The City of Rochester, as lead agency, has determined that the proposed Municipal Code Amendments - Lead Poisoning Prevention may have a significant adverse impact on the environment and a Draft Environmental Impact Statement must be prepared. A public scoping session was held on **February 28, 2005 at 6:30 p.m.** at City Hall, Council Chambers, 30 Church Street, Rochester, NY. The action involves the City of Rochester proposing to amend its municipal code to provide for the identification, reduction and control of hazards due to the presence of deteriorated lead-based paint in/on pre-1978 structures, in order to protect residents from exposure and reduce the incidence of lead poisoning. The project is located citywide.

Contact: Robert M. Barrows, City Of Rochester, 30 Church Street, Rochester, NY 14614, phone: (585) 428-6150, fax: (585) 428-6229, E-mail: barrowsb@cityofrochester.gov.

Monroe County - The Town of Brighton Town Board, as lead agency, has determined that the proposed University of Rochester IPD Rezoning may have a significant adverse impact on the environment and a Draft Environmental Impact Statement must be prepared. A public scoping session will be held on **March 23, 2005 at 7:30 p.m.** at the Brighton Town Hall, 2300 Elmwood Avenue, Brighton, NY. The action involves the rezoning and incentive zoning of approximately 188 + acres of land (the "Property") from residential to Institutional Planned Development ("IPD"). The project area is comprised of 5 parcels consisting of approximately 255 acres. The project is located in the Town of Brighton, Monroe County. The project area is bounded on the north by the intersection of the former Lehigh Railroad right of way with Interstate Route 390, on the west by the aforementioned ROW, on the east by W. Henrietta Road, and on the south by Southland Drive

NOTICE
COMPLETION OF DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT
AND PUBLIC HEARING

Lead Agency: William A. Johnson, Jr., Mayor
City of Rochester
30 Church Street
Rochester, NY 14614

Date: September 10, 2005

This notice is issued pursuant to Article 8 of the NYS Environmental Conservation Law (State Environmental Quality Review Act) and Chapter 48 of the Rochester Municipal Code (Environmental Review). A Draft Generic Environmental Impact Statement (DGEIS) has been completed and accepted for the proposed action described below. The DGEIS provides an in-depth report on the proposed action and its potential impacts on the environment. Written comments on the DGEIS are requested and will be accepted by the contact person until 5:00 p.m. on October 11, 2005. Comments on the DGEIS will also be received at a public hearing to be held by the Rochester Environmental Commission on Tuesday, September 27, 2005 at 6:30 p.m. in City Council Chambers, City Hall, Room 302-A, 30 Church Street.

Name of Action: Municipal Code Amendments: Lead Poisoning Prevention

Type of Action: Unlisted

Description of Action: The City of Rochester is proposing to amend its municipal code to provide for the identification, reduction and control of hazards due to the presence of deteriorated lead-based paint in/on pre-1978 structures, in order to protect residents from exposure and reduce the incidence of lead poisoning.

Potential Environmental Impacts: Potential adverse environmental impacts could result from the proposed action which may affect the community and its character, including: a reduced supply of affordable housing; depressed property values; increased numbers of vacant residential properties; and the impairment of the character or quality of important historic or architectural properties.

DGEIS Availability: Copies of the DGEIS are available for review at the following locations:

- | | |
|--|--|
| 1. City Clerk's Office
City Hall, Rm 300-A
30 Church Street
Rochester, NY 14614 | 3. City NET Offices |
| 2. Rochester Public Library: Central Library and
Branch Libraries | 4. City of Rochester website:
www.cityofrochester.gov
Click on "Your Government"
Click on "What's New"
Click on "DGEIS Lead Poisoning Prevention" |

Copies of the DGEIS may be obtained from the contact person for a fee, as follows:

1. Printed copy - \$10.00
2. CD - \$5.00

Lead Agency Contact:

Robert M. Barrows
City Hall, Room 028-B
30 Church Street
Rochester, NY 14614
(585)428-6698
e-mail: barrowsb@cityofrochester.gov

B

Neighborhood Descriptions

B. Neighborhood Descriptions

14621 (North)

The neighborhood of 14621 (North) is located directly north of the city-core area and is home to 11,173 or 5% of the City's population. Bordering neighborhoods include 14621 (South) and Northland-Lyceum. There are approximately 4,854 households and 5,383 housing units in the neighborhood. Of the units that are occupied, only 30% are owner-occupied, with the balance being renters. This is 25% below the average for the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent more than half of the total population (58%), with Black or African Americans being the most heavily represented at 37%. There are 1,068 children under 6 years old living in 14621 (North) according to the 2000 U.S. Census.

It is estimated that 53% of the families in 14621 (North) are living below 80% of the MFI, and 17% below 30% of the MFI. Essentially all the housing units in 14621 (North) were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in 14621 (North) is approximately \$45,891, which is 14% below the City average of \$53,141.

It was determined that 17% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is nearly twice the City average of 9%.

Population	11,173
Percent Black	37%
Percent Minority	58%
Population over 25 without a High School Diploma	43%
Housing Units	5,383
Households	4,854
Properties owned by Investors	60%
Owner Occupancy Rate	32%
Families	2,440
Families below 30% MFI	17%
Families below 80% MFI	53%
Residential Properties Built Before 1980	5,221
Estimated Number of Children Under 6 in Pre-1980 Housing	1,041

B. Neighborhood Descriptions

14621 (South)

The neighborhood of 14621 (South) is located directly north of the city-core area and is home to 17,740 or 8.1% of the City's population. Bordering neighborhoods include 14621 (North) and Northland-Lyceum. There are approximately 5,718 households and 7,040 housing units in the neighborhood. Of the units that are occupied, only 31% are owner-occupied, with the balance being renters. This is 22% below the average for the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent 82% of the total population, with African Americans being the most heavily represented at 54%. There are 2,109 children under the age of 6 years old living in 14621 (South) according to the 2000 US Census.

It is estimated that 70% of the families in 14621 (South) are living below 80% of the MFI, and 35% below 30% of the MFI. Essentially all the housing units in 14621 (South) were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in 14621 (South) is approximately \$30,075, which is 43% below the City average of \$53,141.

It was determined that 29% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is more than three times the City average of 9%.

Population	17,740
Percent Black	54%
Percent Minority	82%
Population over 25 without a High School Diploma	51%
Housing Units	7,040
Households	5,718
Properties owned by Investors	50%
Owner Occupancy Rate	31%
Families	4,152
Families below 30% MFI	35%
Families below 80% MFI	70%
Residential Properties Built Before 1980	6,866
Estimated Number of Children Under 6 in Pre-1980 Housing	2,032

B. Neighborhood Descriptions

19th Ward

The neighborhood of 19th Ward is located on the southwest boundary of the city and is home to 18,797 or 8.6% of the City's population. Bordering neighborhoods include Genesee-Jefferson and Plymouth-Exchange and UNIT Lyell-Otis. There are approximately 6,937 households and 7,667 housing units in the neighborhood. Of the units that are occupied, only 54% are owner-occupied, with the balance being renters. This is an owner-occupancy rate 35% greater than the city rate of 40%.

The minority populations in the neighborhood represent the majority of the total population (74%), with Black or African Americans being the most heavily represented at 69%. There are 1,768 children under the age of 6 years old living in 19th Ward according to the 2000 US Census.

It is estimated that 39% of the families in 19th Ward are living below 80% of the MFI, and 11% below 30% of the MFI. Essentially all the housing units in 19th Ward were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in 19th Ward is approximately \$55,146, which is 4% above the City average of \$53,141.

It was determined that 23% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is two and a half times the City average of 9%.

Population	18,797
Percent Black	69%
Percent Minority	74%
Population over 25 without a High School Diploma	22%
Housing Units	7,667
Households	6,937
Properties owned by Investors	37%
Owner Occupancy Rate	54%
Families	4,515
Families below 30% MFI	11%
Families below 80% MFI	39%
Residential Properties Built Before 1980	7,506
Estimated Number of Children Under 6 in Pre-1980 Housing	1,741

B. Neighborhood Descriptions

Alexander

The neighborhood of Alexander is located directly in the city-core area and is home to 1,503 or 0.7% of the City's population. Bordering neighborhoods include Upper Falls, South Marketview Heights, Atlantic University, Park Avenue, Pearl-Meigs-Monroe and South Wedge. There are approximately 991 households and 1,096 housing units in the neighborhood. Of the units that are occupied, only 8% are owner-occupied, with the balance being renters. This is approximately one-fifth of the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent less than half of the total population (40%), with Black or African Americans being the most heavily represented at 30%. There are 56 children under the age of 6 years old living in Alexander according to the 2000 US Census.

It is estimated that 51% of the families in Alexander are living below 80% of the MFI, and 7% below 30% of the MFI. Essentially all the housing units in Alexander were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Alexander is approximately \$54,953, which is 3% above the City average of \$53,141.

It was determined that 19% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is more than twice the City average of 9%.

Population	1,503
Percent Black	30%
Percent Minority	40%
Population over 25 without a High School Diploma	21%
Housing Units	1,096
Households	991
Properties owned by Investors	83%
Owner Occupancy Rate	8%
Families	183
Families below 30% MFI	7%
Families below 80% MFI	51%
Residential Properties Built Before 1980	966
Estimated Number of Children Under 6 in Pre-1980 Housing	51

B. Neighborhood Descriptions

Atlantic-University

The neighborhood of Atlantic-University is located in the eastern city-core area and is home to 3,335 or 1.5% of the City's population. Bordering neighborhoods include Beechwood, Cobbs Hill, Park Avenue, Alexander and South Marketview Heights. There are approximately 2,032 households and 2,257 housing units in the neighborhood. Of the units that are occupied, only 11% are owner-occupied, with the balance being renters. This is approximately one-quarter of the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent 20% of the total population, with Black or African Americans being the most heavily represented at 15%. There are 86 children under the age of 6 years old living in Atlantic-University according to the 2000 US Census.

It is estimated that 41% of the families in Atlantic-University are living below 80% of the MFI, and 24% below 30% of the MFI. Essentially all the housing units in Atlantic-University were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Atlantic-University is approximately \$89,694, which is nearly 70% greater than the City average of \$53,141.

It was determined that 13% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is more than 40% above the City average of 9%.

Population	3,335
Percent Black	15%
Percent Minority	20%
Population over 25 without a High School Diploma	16%
Housing Units	2,257
Households	2,032
Properties owned by Investors	80%
Owner Occupancy Rate	11%
Families	345
Families below 30% MFI	24%
Families below 80% MFI	41%
Residential Properties Built Before 1980	2,204
Estimated Number of Children Under 6 in Pre-1980 Housing	82

B. Neighborhood Descriptions

Beechwood

The neighborhood of Beechwood is located in the northeastern portion of the city and is home to 7,750 or 3.5% of the City's population. Bordering neighborhoods include Homestead, South Irondequoit, Culver-Winton and Browncroft, Atlantic-University, and North Marketview Heights. There are approximately 2,786 households and 3,316 housing units in the neighborhood. Of the units that are occupied, only 31% are owner-occupied, with the balance being renters. This is 22% lower than the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent more the majority of the total population (70%), with Black or African Americans being the most heavily represented at 58%. There are 984 children under the age of 6 years old living in Beechwood according to the 2000 US Census.

It is estimated that 67% of the families in Beechwood are living below 80% of the MFI, and 30% below 30% of the MFI. Essentially all the housing units in Beechwood were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Beechwood is approximately \$43,950, which is 17% less than the City average of \$53,141.

It was determined that 29% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is more than three times the City average of 9%.

Population	7,750
Percent Black	58%
Percent Minority	70%
Population over 25 without a High School Diploma	30%
Housing Units	3,316
Households	2,786
Properties owned by Investors	53%
Owner Occupancy Rate	31%
Families	1,844
Families below 30% MFI	30%
Families below 80% MFI	67%
Residential Properties Built Before 1980	3,525
Estimated Number of Children Under 6 in Pre-1980 Housing	966

B. Neighborhood Descriptions

Charlotte

The neighborhood of Charlotte is located at the northwestern tip of the city and is home to 8,829 or 4% of the City's population. Bordering neighborhoods include Greece, West Maplewood and East Maplewood. There are approximately 4,031 households and 4,260 housing units in the neighborhood. Of the units that are occupied, 53% are owner-occupied, with the balance being renters. This is one-third higher than the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent only 10% of the total population, with Black or African Americans being the most heavily represented at 5%. There are 709 children under the age of 6 years old living in Charlotte according to the 2000 US Census.

It is estimated that 32% of the families in Charlotte are living below 80% of the MFI, and 7% below 30% of the MFI. Essentially all the housing units in Charlotte were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Charlotte is approximately \$71,366, which is one-third greater than the City average of \$53,141.

It was determined that 7% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is 23% below the City average of 9%.

Population	8,829
Percent Black	5%
Percent Minority	10%
Population over 25 without a High School Diploma	23%
Housing Units	4,260
Households	4,031
Properties owned by Investors	41%
Owner Occupancy Rate	53%
Families	2,056
Families below 30% MFI	7%
Families below 80% MFI	32%
Residential Properties Built Before 1980	3,901
Estimated Number of Children Under 6 in Pre-1980 Housing	641

B. Neighborhood Descriptions

Cobbs Hill

The neighborhood of Cobbs Hill is located in the southeastern section of the city and is home to 4,020 or 1.8% of the City's population. Bordering neighborhoods include Culver-Winton, Brighton, Upper Monroe, Park Avenue, and Atlantic-University. There are approximately 2,224 households and 2,404 housing units in the neighborhood. Of the units that are occupied, 44% are owner-occupied, with the balance being renters. This is 10% above the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent only 8% of the total population, with Black or African Americans being the most heavily represented at 5%. There are 155 children under the age of 6 years old living in Cobbs Hill according to the 2000 US Census.

It is estimated that 17% of the families in Cobbs Hill are living below 80% of the MFI, and 3% below 30% of the MFI. Essentially all the housing units in Cobbs Hill were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Cobbs Hill is approximately \$149,727, which is nearly three times the City average of \$53,141.

It was determined that 4% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is less than half the City average of 9%.

Population	4,020
Percent Black	5%
Percent Minority	8%
Population over 25 without a High School Diploma	8%
Housing Units	2,404
Households	2,224
Properties owned by Investors	49%
Owner Occupancy Rate	44%
Families	805
Families below 30% MFI	3%
Families below 80% MFI	17%
Residential Properties Built Before 1980	2,265
Estimated Number of Children Under 6 in Pre-1980 Housing	152

B. Neighborhood Descriptions

Corn Hill

The neighborhood of Corn Hill is located near the southwest city-core area and is home to 2,655 or 1.2% of the City's population. Bordering neighborhoods include Genesee-Jefferson & Plymouth-Exchange and Mayors Heights. There are approximately 1,348 households and 1,440 housing units in the neighborhood. Of the units that are occupied, only 25% are owner-occupied, with the balance being renters. This is nearly 40% below the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent more than half of the total population (60%), with Black or African Americans being the most heavily represented at 55%. There are 222 children under the age of 6 years old living in Corn Hill according to the 2000 US Census.

It is estimated that 57% of the families in Corn Hill are living below 80% of the MFI, and 25% below 30% of the MFI. Essentially all the housing units in Corn Hill were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Corn Hill is approximately \$78,021, which is 47% greater than the City average of \$53,141.

It was determined that 18% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is twice the City average of 9%.

Population	2,665
Percent Black	55%
Percent Minority	60%
Population over 25 without a High School Diploma	29%
Housing Units	1,440
Households	1,348
Properties owned by Investors	68%
Owner Occupancy Rate	25%
Families	489
Families below 30% MFI	25%
Families below 80% MFI	57%
Residential Properties Built Before 1980	1,187
Estimated Number of Children Under 6 in Pre-1980 Housing	173

B. Neighborhood Descriptions

Culver-Winton and Browncroft

The neighborhoods of Culver-Winton and Browncroft are located northeast of the city-core area and are home to 12,213 or 5.6% of the City's population. Bordering neighborhoods include Irondequoit, Brighton, Cobbs Hill and Beechwood. There are approximately 5,515 households and 5,807 housing units in the neighborhood. Of the units that are occupied, 60% are owner-occupied, with the balance being renters. This is 50% higher than the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent 19% of the total population, with Black or African Americans being the most heavily represented at 13%. There are 994 children under the age of 6 years old living in Culver-Winton and Browncroft according to the 2000 US Census.

It is estimated that 33% of the families in Culver-Winton and Browncroft are living below 80% of the MFI, and 6% below 30% of the MFI. Essentially all the housing units in Culver-Winton and Browncroft were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Culver-Winton and Browncroft is approximately \$72,742, which is nearly 40% greater than the City average of \$53,141.

It was determined that 10% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is slightly above the City average of 9%.

Population	12,213
Percent Black	13%
Percent Minority	19%
Population over 25 without a High School Diploma	17%
Housing Units	5,807
Households	5,515
Properties owned by Investors	35%
Owner Occupancy Rate	60%
Families	2,921
Families below 30% MFI	6%
Families below 80% MFI	33%
Residential Properties Built Before 1980	5,639
Estimated Number of Children Under 6 in Pre-1980 Housing	972

B. Neighborhood Descriptions

Edgerton

The neighborhood of Edgerton is located northwest of the city-core area and is home to 13,069 or 5.9% of the City's population. Bordering neighborhoods include East Maplewood, POD/CHAC/BEST, and UNIT and Lyell-Otis. There are approximately 4,921 households and 6,031 housing units in the neighborhood. Of the units that are occupied, only 23% are owner-occupied, with the balance being renters. This is 42% below the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent more than half of the total population (59%), with Black or African Americans being the most heavily represented at 38%. There are 1,625 children under the age of 6 years old living in Edgerton according to the 2000 US Census.

It is estimated that 73% of the families in Edgerton are living below 80% of the MFI, and 34% below 30% of the MFI. Essentially all the housing units in Edgerton were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Edgerton is approximately \$30,092, which is 43% less than the City average of \$53,141.

It was determined that 25% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is nearly three times the City average of 9%.

Population	13,069
Percent Black	38%
Percent Minority	59%
Population over 25 without a High School Diploma	42%
Housing Units	6,031
Households	4,921
Properties owned by Investors	59%
Owner Occupancy Rate	31%
Families	2,949
Families below 30% MFI	34%
Families below 80% MFI	73%
Residential Properties Built Before 1980	5,900
Estimated Number of Children Under 6 in Pre-1980 Housing	1,590

B. Neighborhood Descriptions

Elwanger-Barry and Swillburg

The neighborhoods of Elwanger-Barry and Swillburg are located directly south of the city-core area and are home to 4,724 or 2.1% of the City's population. Bordering neighborhoods include Upper Monroe, Brighton, Strong, South Wedge and Pearl. There are approximately 1,806 households and 1,925 housing units in the neighborhood. Of the units that are occupied 58% are owner-occupied, with the balance being renters. This is 45% higher than the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent 20% of the total population, with Black or African Americans being the most heavily represented at 12%. There are 236 children under the age of 6 years old living in Elwanger-Barry and Swillburg according to the 2000 US Census.

It is estimated that 43% of the families in Elwanger-Barry and Swillburg are living below 80% of the MFI, and 14% below 30% of the MFI. Essentially all the housing units in Elwanger-Barry and Swillburg were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Elwanger-Barry and Swillburg is approximately \$70,916, which is one-third greater than the City average of \$53,141.

It was determined that 15% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is two-thirds higher than the City average of 9%.

Population	4,724
Percent Black	12%
Percent Minority	20%
Population over 25 without a High School Diploma	21%
Housing Units	1,925
Households	1,806
Properties owned by Investors	36%
Owner Occupancy Rate	58%
Families	945
Families below 30% MFI	14%
Families below 80% MFI	43%
Residential Properties Built Before 1980	1,860
Estimated Number of Children Under 6 in Pre-1980 Housing	232

B. Neighborhood Descriptions

Genesee-Jefferson and Plymouth-Exchange

The neighborhoods of Genesee-Jefferson and Plymouth-Exchange are located southwest of the city-core area and are home to 8,887 or 4% of the City's population. Bordering neighborhoods include Mayors Heights, Corn Hill, and 19th Ward. There are approximately 3,261 households and 3,899 housing units in the neighborhood. Of the units that are occupied, only 31% are owner-occupied, with the balance being renters. This is 22% below the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent almost all of the total population (96%), with Black or African Americans being the most heavily represented at 92%. There are 1,119 children under the age of 6 years old living in Genesee-Jefferson and Plymouth-Exchange according to the 2000 US Census.

It is estimated that 67% of the families in Genesee-Jefferson and Plymouth-Exchange are living below 80% of the MFI, and 32% below 30% of the MFI. Essentially all the housing units in Genesee-Jefferson and Plymouth-Exchange were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Genesee-Jefferson and Plymouth-Exchange is approximately \$28,711, which is 46% below the City average of \$53,141.

It was determined that 34% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is nearly four times the City average of 9%.

Population	8,887
Percent Black	92%
Percent Minority	96%
Population over 25 without a High School Diploma	46%
Housing Units	3,899
Households	3,261
Properties owned by Investors	53%
Owner Occupancy Rate	31%
Families	2,078
Families below 30% MFI	32%
Families below 80% MFI	67%
Residential Properties Built Before 1980	3,875
Estimated Number of Children Under 6 in Pre-1980 Housing	1,103

B. Neighborhood Descriptions

Homestead Heights

The neighborhood of Homestead Heights is located to the northeast of the city-core area and is home to 3,685 or 1.7% of the City's population. Bordering neighborhoods include Northland-Lycum, Irondequoit, Beechwood, and North Marketview. There are approximately 1,464 households and 1,596 housing units in the neighborhood. Of the units that are occupied, 65% are owner-occupied, with the balance being renters. This is more than 60% higher than the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent more than half of the total population (51%), with Black or African Americans being the most heavily represented at 41%. There are 384 children under the age of 6 years old living in Homestead Heights according to the 2000 US Census.

It is estimated that 42% of the families in Homestead Heights are living below 80% of the MFI, and 18% below 30% of the MFI. Essentially all the housing units in Homestead Heights were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Homestead Heights is approximately \$55,094, which is 4% above the City average of \$53,141.

It was determined that 20% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is more than twice the City average of 9%.

Population	3,685
Percent Black	41%
Percent Minority	51%
Population over 25 without a High School Diploma	25%
Housing Units	1,596
Households	1,464
Properties owned by Investors	32%
Owner Occupancy Rate	60%
Families	920
Families below 30% MFI	18%
Families below 80% MFI	41%
Residential Properties Built Before 1980	1,552
Estimated Number of Children Under 6 in Pre-1980 Housing	375

B. Neighborhood Descriptions

Maplewood (East)

The neighborhood of Maplewood (East) is located directly northwest of the city-core area and is home to 13,946 or 6.3% of the City's population. Bordering neighborhoods include West Maplewood, Charlotte, Edgerton, and UNIT and Lyell-Otis. There are approximately 5,200 households and 5,811 housing units in the neighborhood. Of the units that are occupied, only 42% are owner-occupied, with the balance being renters. This is slightly more than the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent 37% of the total population, with Black or African Americans being the most heavily represented at 25%. There are 1,569 children under the age of 6 years old living in Maplewood (East) according to the 2000 US Census.

It is estimated that 42% of the families in Maplewood (East) are living below 80% of the MFI, and 14% below 30% of the MFI. Essentially all the housing units in Maplewood (East) were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Maplewood (East) is approximately \$52,826, which is slightly below the City average of \$53,141.

It was determined that 15% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which two-thirds higher than the City average of 9%.

Population	13,946
Percent Black	25%
Percent Minority	37%
Population over 25 without a High School Diploma	20%
Housing Units	5,811
Households	5,200
Properties owned by Investors	47%
Owner Occupancy Rate	42%
Families	3,230
Families below 30% MFI	14%
Families below 80% MFI	42%
Residential Properties Built Before 1980	5,688
Estimated Number of Children Under 6 in Pre-1980 Housing	1,543

B. Neighborhood Descriptions

Maplewood (West)

The neighborhood of Maplewood (West) is located on the western boarder of the city and is home to 5,373 or 2.4% of the City's population. Bordering neighborhoods include Greece, Charlotte, East Maplewood and UNIT and Lyell-Otis.. There are approximately 2,421 households and 2,559 housing units in the neighborhood. Of the units that are occupied, 54% are owner-occupied, with the balance being renters. This is 35% higher than the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent 25% of the total population, with Black or African Americans being the most heavily represented at 16%. There are 531 children under the age of 6 years old living in Maplewood (West) according to the 2000 US Census.

It is estimated that 36% of the families in Maplewood (West) are living below 80% of the MFI, and 6% below 30% of the MFI. Essentially all the housing units in Maplewood (West) were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Maplewood (West) is approximately \$58,392, which is 10% greater than the City average of \$53,141.

It was determined that 7% of the children tested in the neighborhood had blood lead levels above 10 µg/dL , which is below the City average of 9%.

Population	5,373
Percent Black	16%
Percent Minority	25%
Population over 25 without a High School Diploma	22%
Housing Units	2,559
Households	2,421
Properties owned by Investors	40%
Owner Occupancy Rate	54%
Families	1,351
Families below 30% MFI	6%
Families below 80% MFI	36%
Residential Properties Built Before 1980	2,423
Estimated Number of Children Under 6 in Pre-1980 Housing	505

B. Neighborhood Descriptions

Mayors Heights (a.k.a Changing of the Scenes)

The neighborhood of Mayors Heights is located southwest of the city-core area and is home to 1,426 or 0.6% of the City's population. Bordering neighborhoods include Susan B. Anthony, Corn Hill, and Genesee-Jefferson & Plymouth-Exchange. There are approximately 530 households and 670 housing units in the neighborhood. Of the units that are occupied, only 23% are owner-occupied, with the balance being renters. This is nearly half the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent almost all of the total population (97%), with Black or African Americans being the most heavily represented at 90%. There are 106 children under the age of 6 years old living in Mayors Heights according to the 2000 US Census.

It is estimated that 73% of the families in Mayors Heights are living below 80% of the MFI, and 47% below 30% of the MFI. Essentially all the housing units in Mayors Heights were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Mayors Heights is approximately \$31,517, which is 40% below the City average of \$53,141.

It was determined that 29% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is more than three times the City average of 9%.

Population	1,426
Percent Black	90%
Percent Minority	97%
Population over 25 without a High School Diploma	50%
Housing Units	670
Households	530
Properties owned by Investors	56%
Owner Occupancy Rate	23%
Families	345
Families below 30% MFI	47%
Families below 80% MFI	73%
Residential Properties Built Before 1980	607
Estimated Number of Children Under 6 in Pre-1980 Housing	96

B. Neighborhood Descriptions

Marketview Heights (North)

The neighborhood of Marketview Heights (North) is located directly north of the city-core area and is home to 8,685 or 4% of the City's population. Bordering neighborhoods include Northland-Lyceum, Homestead Heights, Beechwood, Atlantic-University, Marketview Heights (South), Upper Falls, and 14621 (South). There are approximately 2,905 households and 3,474 housing units in the neighborhood. Of the units that are occupied, only 28% are owner-occupied, with the balance being renters. This is 30% below the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent a majority of the total population (84%), with Black or African Americans being the most heavily represented at 60%. There are 1097 children under the age of 6 years old living in Marketview Heights (North) according to the 2000 US Census.

It is estimated that 76% of the families in Marketview Heights (North) are living below 80% of the MFI, and 47% below 30% of the MFI. Essentially all the housing units in Marketview Heights (North) were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Marketview Heights (North) is approximately \$28,641, which is nearly half the City average of \$53,141.

It was determined that 29% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is more than three times the City average of 9%.

Population	8,685
Percent Black	60%
Percent Minority	84%
Population over 25 without a High School Diploma	53%
Housing Units	3,474
Households	2,905
Properties owned by Investors	56%
Owner Occupancy Rate	28%
Families	2,109
Families below 30% MFI	47%
Families below 80% MFI	76%
Residential Properties Built Before 1980	3,213
Estimated Number of Children Under 6 in Pre-1980 Housing	968

B. Neighborhood Descriptions

Marketview Heights (South)

The neighborhood of Marketview Heights (South) is located directly north of the city-core area and is home to 2,096 or 1.0% of the City's population. Bordering neighborhoods include Upper Falls, Alexander, Atlantic-University, Beechwood and Marketview Heights (North). There are approximately 763 households and 900 housing units in the neighborhood. Of the units that are occupied, only 14% are owner-occupied, with the balance being renters. This is about one-third of the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent a majority of the total population (82%), with Black or African Americans being the most heavily represented at 66%. There are 246 children under the age of 6 years old living in Marketview Heights (South) according to the 2000 US Census.

It is estimated that 78% of the families in Marketview Heights (South) are living below 80% of the MFI, and 48% below 30% of the MFI. Essentially all the housing units in Marketview Heights (South) were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Marketview Heights (South) is approximately \$29,185, which is 45% less than the City average of \$53,141.

It was determined that 28% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is more than three times the City average of 9%.

Population	2,096
Percent Black	66%
Percent Minority	82%
Population over 25 without a High School Diploma	53%
Housing Units	900
Households	763
Properties owned by Investors	71%
Owner Occupancy Rate	14%
Families	468
Families below 30% MFI	48%
Families below 80% MFI	78%
Residential Properties Built Before 1980	731
Estimated Number of Children Under 6 in Pre-1980 Housing	182

B. Neighborhood Descriptions

Northland-Lyceum

The neighborhood of Northland-Lyceum is located directly northeast of the city-core area and is home to 9,917 or 4.5% of the City's population. Bordering neighborhoods include 14621 (North), 14621 (South), North Marketview Heights, Homestead, and Irondequoit. There are approximately 3,872 households and 4,171 housing units in the neighborhood. Of the units that are occupied, 57% are owner-occupied, with the balance being renters. This is 43% higher than the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent more than half of the total population (53%), with Black or African Americans being the most heavily represented at 34%. There are 932 children under the age of 6 years old living in Northland-Lyceum according to the 2000 US Census.

It is estimated that 48% of the families in Northland-Lyceum are living below 80% of the MFI, and 13% below 30% of the MFI. Essentially all the housing units in Northland-Lyceum were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Northland-Lyceum is approximately \$51,963, which is 2% below the City average of \$53,141.

It was determined that 13% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is 44% above the City average of 9%.

Population	9,917
Percent Black	34%
Percent Minority	53%
Population over 25 without a High School Diploma	35%
Housing Units	4,171
Households	3,872
Properties owned by Investors	36%
Owner Occupancy Rate	57%
Families	2,490
Families below 30% MFI	13%
Families below 80% MFI	48%
Residential Properties Built Before 1980	3,970
Estimated Number of Children Under 6 in Pre-1980 Housing	886

B. Neighborhood Descriptions

Park Avenue

The neighborhood of Park Avenue is located southeast of the city-core area and is home to 8,414 or 3.8% of the City's population. Bordering neighborhoods include Atlantic-University, Cobbs Hill, Upper Monroe, Pearl-Meigs-Monroe, and Alexander. There are approximately 5,024 households and 5,279 housing units in the neighborhood. Of the units that are occupied, only 18% are owner-occupied, with the balance being renters. This is less than half the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent 10% of the total population, with Black or African Americans being the most heavily represented at 5%. There are 232 children under the age of 6 years old living in Park Avenue according to the 2000 US Census.

It is estimated that 30% of the families in Park Avenue are living below 80% of the MFI, and 10% below 30% of the MFI. Essentially all the housing units in Park Avenue were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Park Avenue is approximately \$127,619, which is nearly two and half times greater than the City average of \$53,141.

It was determined that 12% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is one-third higher than the City average of 9%.

Population	8,414
Percent Black	10%
Percent Minority	5%
Population over 25 without a High School Diploma	10%
Housing Units	5,279
Households	5,024
Properties owned by Investors	77%
Owner Occupancy Rate	18%
Families	997
Families below 30% MFI	10%
Families below 80% MFI	30%
Residential Properties Built Before 1980	5,207
Estimated Number of Children Under 6 in Pre-1980 Housing	227

B. Neighborhood Descriptions

Pearl-Meigs-Monroe

The neighborhood of Pearl-Meigs-Monroe is located directly southeast of the city-core area and is home to 2,105 or 1% of the City's population. Bordering neighborhoods include Alexander, Park Avenue, Upper Monroe, Elwanger-Swillburg, and South Wedge. There are approximately 1,112 households and 1,246 housing units in the neighborhood. Of the units that are occupied, only 17% are owner-occupied, with the balance being renters. This is less than half the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent one-third of the total population (31%), with Black or African Americans being the most heavily represented at 21%. There are 97 children under the age of 6 years old living in Pearl-Meigs-Monroe according to the 2000 US Census.

It is estimated that 51% of the families in Pearl-Meigs-Monroe are living below 80% of the MFI, and 14% below 30% of the MFI. Essentially all the housing units Pearl-Meigs-Monroe were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Pearl-Meigs-Monroe is approximately \$54,857, which is 3% greater than the City average of \$53,141.

It was determined that 20% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is more than twice the City average of 9%.

Population	2,105
Percent Black	21%
Percent Minority	33%
Population over 25 without a High School Diploma	19%
Housing Units	1,246
Households	1,112
Properties owned by Investors	73%
Owner Occupancy Rate	17%
Families	328
Families below 30% MFI	14%
Families below 80% MFI	51%
Residential Properties Built Before 1980	1,180
Estimated Number of Children Under 6 in Pre-1980 Housing	95

B. Neighborhood Descriptions

POD, CHAC and BEST

The neighborhoods of POD, CHAC and BEST are located directly west of the city-core area and are home to 9,014 or 4% of the City's population. Bordering neighborhoods include UNIT and Lyell-Otis, Edgerton and Susan B. Anthony. There are approximately 3,239 households and 3,936 housing units in the neighborhood. Of the units that are occupied, only 28% are owner-occupied, with the balance being renters. This is 30% below the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent the majority of the total population (68%), with Black or African Americans being the most heavily represented at 54%. There are 978 children under the age of 6 years old living in POD and CHAC and BEST according to the 2000 US Census.

It is estimated that 65% of the families in POD and CHAC and BEST are living below 80% of the MFI, and 34% below 30% of the MFI. Essentially all the housing units in POD and CHAC and BEST were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in POD and CHAC and BEST is approximately \$32,437 which is 39% below the City average of \$53,141.

It was determined that 29% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which more than three times the City average of 9%.

Population	9,014
Percent Black	54%
Percent Minority	68%
Population over 25 without a High School Diploma	44%
Housing Units	3,936
Households	3,239
Properties owned by Investors	54%
Owner Occupancy Rate	28%
Families	2,064
Families below 30% MFI	34%
Families below 80% MFI	65%
Residential Properties Built Before 1980	3,895
Estimated Number of Children Under 6 in Pre-1980 Housing	970

B. Neighborhood Descriptions

South Wedge

The neighborhood of South Wedge is located directly south of the city-core area and is home to 6,564 or 3% of the City's population. Bordering neighborhoods include Alexander, Pearl-Meigs-Monroe, Elwanger-Swillburg and Strong. There are approximately 3,363 households and 3,640 housing units in the neighborhood. Of the units that are occupied, only 21% are owner-occupied, with the balance being renters. This is nearly half the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent less than half of the total population (43%), with Black or African Americans being the most heavily represented at 32%. There are 491 children under the age of 6 years old living in South Wedge according to the 2000 US Census.

It is estimated that 66% of the families in South Wedge are living below 80% of the MFI, and 25% below 30% of the MFI. Essentially all the housing units in South Wedge were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in South Wedge is approximately \$57,186, which is 8% greater than the City average of \$53,141.

It was determined that 22% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is nearly two and a half times the City average of 9%.

Population	6,564
Percent Black	32%
Percent Minority	43%
Population over 25 without a High School Diploma	27%
Housing Units	3,640
Households	3,363
Properties owned by Investors	72%
Owner Occupancy Rate	21%
Families	1,233
Families below 30% MFI	25%
Families below 80% MFI	66%
Residential Properties Built Before 1980	2,860
Estimated Number of Children Under 6 in Pre-1980 Housing	439

B. Neighborhood Descriptions

Strong

The neighborhood of Strong is located directly south of the city-core area and is home to 6,066 or 2.8% of the City's population. Bordering neighborhoods include South Wedge, Elwanger-Swillburg and Brighton. There are approximately 2,708 households and 2,808 housing units in the neighborhood. Of the units that are occupied, only 33% are owner-occupied, with the balance being renters. This is 17% below the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent 25% of the total population, with Black or African Americans representing 9% of the minority population. There are 337 children under the age of 6 years old living Strong according to the 2000 US Census.

It is estimated that 49% of the families in Strong are living below 80% of the MFI, and 9% below 30% of the MFI. Essentially all the housing units in Strong were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Strong is approximately \$76,969, which is 45% greater than the City average of \$53,141.

It was determined that 6% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is one-third below the City average of 9%.

Population	6,066
Percent Black	9%
Percent Minority	25%
Population over 25 without a High School Diploma	18%
Housing Units	2,808
Households	2,708
Properties owned by Investors	63%
Owner Occupancy Rate	33%
Families	1,019
Families below 30% MFI	9%
Families below 80% MFI	49%
Residential Properties Built Before 1980	2,626
Estimated Number of Children Under 6 in Pre-1980 Housing	314

B. Neighborhood Descriptions

Susan B. Anthony

The neighborhood of Susan B. Anthony is located directly west of the city-core area and is home to 1,663 or 0.8% of the City's population. Bordering neighborhoods include Corn Hill, Mayors Heights, 19th Ward and POD, CHAC and BEST. There are approximately 617 households and 752 housing units in the neighborhood. Of the units that are occupied, only 18% are owner-occupied, with the balance being renters. This is less than half the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent most of the total population (93%), with Black or African Americans being the most heavily represented at 86%. There are 199 children under the age of 6 years old living in Susan B. Anthony according to the 2000 US Census.

It is estimated that 70% of the families in Susan B. Anthony are living below 80% of the MFI, and 50% below 30% of the MFI. Essentially all the housing units in Susan B. Anthony were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Susan B. Anthony is approximately \$28,888, which is 46% less than the City average of \$53,141.

It was determined that 34% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is nearly four times the City average of 9%.

Population	1,663
Percent Black	86%
Percent Minority	93%
Population over 25 without a High School Diploma	46%
Housing Units	752
Households	617
Properties owned by Investors	64%
Owner Occupancy Rate	18%
Families	349
Families below 30% MFI	50%
Families below 80% MFI	70%
Residential Properties Built Before 1980	700
Estimated Number of Children Under 6 in Pre-1980 Housing	190

B. Neighborhood Descriptions

UNIT and Lyell-Otis

The neighborhoods of UNIT and Lyell-Otis are located directly on the western edge of the City and are home to 7,512 or 3.4% of the City's population. Bordering neighborhoods include West Maplewood, Edgerton, POD, CHAC and BEST and 19th Ward. There are approximately 3,036 households and 3,262 housing units in the neighborhood. Of the units that are occupied, 56% are owner-occupied, with the balance being renters. This is 40% higher than the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent less than half of the total population (40%), with Black or African Americans being the most heavily represented at 27%. There are 738 children under the age of 6 years old living in UNIT and Lyell-Otis according to the 2000 US Census.

It is estimated that 50% of the families in UNIT and Lyell-Otis are living below 80% of the MFI, and 16% below 30% of the MFI. Essentially all the housing units in UNIT and Lyell-Otis were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in UNIT and Lyell-Otis is approximately \$50,291, which is 5% less than the City average of \$53,141.

It was determined that 11% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is slightly above the City average of 9%.

Population	7,512
Percent Black	27%
Percent Minority	40%
Population over 25 without a High School Diploma	38%
Housing Units	3,262
Households	3,036
Properties owned by Investors	38%
Owner Occupancy Rate	56%
Families	1,830
Families below 30% MFI	16%
Families below 80% MFI	50%
Residential Properties Built Before 1980	3,015
Estimated Number of Children Under 6 in Pre-1980 Housing	682

B. Neighborhood Descriptions

Upper Falls

The neighborhood of Upper Falls is located directly north of the city-core area and is home to 6,362 or 2.9% of the City's population. Bordering neighborhoods include 14621 (South), North Marketview and South Marketview. There are approximately 2,264 households and 2,637 housing units in the neighborhood. Of the units that are occupied, only 14% are owner-occupied, with the balance being renters. This is one-third the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent most of the total population (86%), with Black or African Americans being the most heavily represented at 61%. There are 770 children under the age of 6 years old living in Upper Falls according to the 2000 US Census.

It is estimated that 80% of the families in Upper Falls are living below 80% of the MFI, and 44% below 30% of the MFI. Essentially all the housing units in Upper Falls were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Upper Falls is approximately \$26,793, which is half the City average of \$53,141.

It was determined that 32% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is three and one-half times more than the City average of 9%.

Population	6,362
Percent Black	61%
Percent Minority	86%
Population over 25 without a High School Diploma	56%
Housing Units	2,637
Households	2,264
Properties owned by Investors	72%
Owner Occupancy Rate	14%
Families	1517
Families below 30% MFI	44%
Families below 80% MFI	80%
Residential Properties Built Before 1980	2,072
Estimated Number of Children Under 6 in Pre-1980 Housing	600

B. Neighborhood Descriptions

Upper Monroe

The neighborhood of Upper Monroe is located directly southeast of the city-core area and is home to 3,128 or 1.4% of the City's population. Bordering neighborhoods include Elwanger-Swillburg, Pearl-Meigs-Monroe, Park Avenue, Cobbs Hill and North Brighton. There are approximately 1,385 households and 1,487 housing units in the neighborhood. Of the units that are occupied, only 31% are owner-occupied, with the balance being renters. This is 22% below the City owner-occupancy rate of 40%.

The minority populations in the neighborhood represent less than one-fifth of the total population (15%), with Black or African Americans being the most heavily represented at 9%. There are 132 children under the age of 6 years old living in Upper Monroe according to the 2000 US Census.

It is estimated that 32% of the families in Upper Monroe are living below 13% of the MFI, and 17% below 30% of the MFI. Essentially all the housing units in Upper Monroe were built before 1978, meaning all have the potential to contain lead-based paint and could be considered a hazard depending on how well the home is maintained. The average assessed value of homes in Upper Monroe is approximately \$92,344, which is 74% greater than the City average of 53,141.

It was determined that 19% of the children tested in the neighborhood had blood lead levels above 10 µg/dL, which is more than twice the City average of 9%.

Population	3,128
Percent Black	9%
Percent Minority	15%
Population over 25 without a High School Diploma	16%
Housing Units	1,487
Households	1,385
Properties owned by Investors	63%
Owner Occupancy Rate	31%
Families	518
Families below 30% MFI	13%
Families below 80% MFI	32%
Residential Properties Built Before 1980	1,470
Estimated Number of Children Under 6 in Pre-1980 Housing	130



Economic and Housing Impacts Methodology

C. Economics and Housing Impacts Methodology

This appendix serves to outline the data sources, assumptions and methodology that were utilized for the Section 5.6 – Housing impacts analysis. As an alternative to crowding the results presented in Section 5.6, the details were taken out and are included in this appendix for the reference of the reader.

The impacts resulting from the potential implementation of the proposed alternatives were evaluated under each alternative. This involved input from various resources and several assumptions that provide the framework for measuring the magnitude of economic and housing impacts between the three proposed alternatives and the No Action Alternative. The resulting analysis weighs the alternatives against each other with respect to program costs, housing values, rent, and potential for abandonment.

Overall Framework

The potentially recurring cost of inspections will differ between alternatives. This is due to the lead-hazards identification processes being either based on the need for a Certificate of Lead Poisoning Prevention Code Compliance (under Alt 1) or being a part of the Certificate of Occupancy renewal with the City (under Alts. 2 and 3). It was determined under Alternative 1, that \$500 annually would be required for ongoing maintenance and inspections. No additional annual costs were required with Alternatives 2 or 3.

The cost of potential lead hazard control measures for homes was estimated from interviews conducted with local stakeholders in addition to data obtained from previous studies. The average lead hazard control costs for a typical home was approximately \$7,557 (\$8,140 in 2005) according to the CGR report (CGR 2002). According to a report published in 1988 by the AREUA, a project in Baltimore, MD estimated lead hazard control costs at approximately \$3,815, which, inflated to current year dollars is equal to approximately \$6,410. According to a variety of interviews conducted with local contacts, and based upon the information from the two reports listed above, \$7,500 was determined appropriate for average lead hazard control work.

As stated in Section 5.6, and additional analysis was run for impacts to owner- and renter-occupied housing based on a lower one-time lead hazard reduction cost. This was due to the determined that there were other lead hazard control programs [e.g. Get the Lead Out (GLO)] that were ongoing in the Rochester community that were reporting differences in the average lead hazard costs from what was presented in the DGEIS. Although it is believed that the \$7,500 lead hazard control cost presented in the DGEIS, obtained from interviews with local landlords and various other sources, is a reliable indicator of the average costs associated with making a unit lead safe, the Final GEIS was updated to include an analysis of a \$3,500 one-time lead hazard reduction cost, to represent this lower range.

Owner-occupied housing

The approach used for determining the impacts by neighborhood for owner-occupied housing were to apply the cost of lead hazard control measures against the average market value of homes in the given study area. It was assumed that the likelihood of selling or abandoning would be proportionately higher with the ratio of the lead hazard control cost to the home value. The average market value of the homes were obtained from the NYS Office of Real Property Service and plotted onto a map of the City of Rochester. Home prices in the defined study area neighborhoods will be aggregated and assumed the average for that area (for the owner-occupied analysis, only home with the 210 – single family, year round residence were used).

If the cost to address lead hazards exceeds an assumed percentage of the overall value of the house, it is assumed the owner will sell or abandon rather than pay to bring the home within compliance.

Renter-occupied housing

For renter-occupied homes, a pro-forma model will be applied that examines the impact on landlords/building managers' cash flows from the proposed ordinance. The lead hazard control costs can be expected to raise annual operation and maintenance expense for some period of time. The cash flow impact from these additional costs (i.e., a one-time hazard control renovation plus potential annual inspections) will be evaluated within spreadsheet based pro-forma model.

Other assumptions for calculation of the impacts on the rental housing market and property owners include:

1. Operating Expense Ratio – The ratio of all expenses to the revenues received through rent. This ratio was set at 0.6 for Rochester, which is above the national/regional average, but takes into account the stagnant housing market and the inability to raise rents due to high supply or restrictions from housing programs.
2. Houses with children Under 6 years old – This figure was important for Alternative 3 and was determined from the CGR study.
3. Discount Rate – A discount rate of 10% was assumed based on historic trends.
4. Average home values – the average home value data by neighborhood was calculated from the NYS Office of Real Property Service identical to the analysis for the owner-occupied housing.
5. Local rent collected – The typical local rent was obtained from the U.S. Census Bureau and estimated based upon census tract and neighborhoods. This figure was then inflated to current year dollars from 2000.



C. Economics and Housing Impacts Methodology

6. Vacancy – Only rent from the number of units occupied as of 2000 were considered in the analysis.

D

Blood Lead Screening Data 1993-2004

Blood Lead Screening Data 1993-2004 (Children <= 6.00 years old at time of screen)

Monroe County Total	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
# Screened	11,480	20,399	19,285	17,972	16,161	14,566	13,619	13,697	13,259	13,537	13,708	13,746
# Screened >= 10 µg/dl	3,563	5,680	3,710	2,959	2,284	2,046	1,698	1,293	1,179	1,234	1,019	900
% Screened >= 10 µg/dl	31.0%	27.8%	19.2%	16.5%	14.1%	14.0%	12.5%	9.4%	8.9%	9.1%	7.4%	6.5%
# with confirmatory lead levels >= 20 µg/dl	553	640	352	280	201	191	129	110	89	112	83	57
% confirmed >= 20 µg/dl	4.82%	3.14%	1.83%	1.56%	1.24%	1.31%	0.95%	0.80%	0.67%	0.83%	0.61%	0.41%

Source: MCDPH 2005.



DGEIS Public Comment Response Table

The following Comment Disposition table was compiled by the Rochester Environmental Commission and their staff in compliance with their City Charter of Rochester obligations as outlined in Article XII – Commissions and Boards §12-12, Rochester Environmental Commission.

Comment Disposition Terminology

1. **No Response Required**
 - a) Comment expresses opinion and does not raise a substantive issue; acknowledge, but no response required.
 - b) Comment addresses an issue that is outside the purview of the DEIS.
 - c) Pertaining to administration and enforcement and cannot be addressed at this time.
2. **Correction Required**

The comment points out an omission or inaccuracy in the DEIS that needs to be corrected.
3. **Explanation/Clarification Required**

The issue needs a simple explanation and/or reference to the section in the DEIS where it is discussed.
4. **Detailed Response Required**

The comment raises an issue which has not been thoroughly addressed. The response should be of sufficient detail to provide a substantiated explanation.
5. **Additional Analysis Required**

Further analysis is believed necessary to offer a proper response.
6. **Alternative Suggested**

The comment suggests an alternative which merits evaluation.

COMMENT SUMMARY/ DISPOSITION RECOMMENDATIONS

Hearing Comments: September 27, 2005
Written Comments Received by 5pm October 11th, 2005

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
§ 1. Introduction, Purpose and Need	1. Must make a commitment for the next four years and to hold everyone accountable [to address lead poisoning issues].	Andrew Williams	1(a)	No response required.
	2. [Attended] training from the City Housing Authority which was used to helped fix two home with grants. Knows first hand how helpful these lead safe programs can be.	Nelson Herrera	1(a)	No response required.
	3. I believe that we can proceed in a brave and urgent way with our government in Rochester and linking arms as a community, always keeping a face of the child in the forefront.	Ralph Spezio	1(a)	No response required.
	4. I would like to see youth higher up on the agenda on our priorities when it comes to keeping us healthy and safe, even if there is an expense.	Scott Blue	1(a)	No response required.
	5. Called upon local leaders to not waste anymore time, need to come to the table and get the problem solved.	Mary D'Alessandro	1(a)	No response required.
§2. Existing Statues, Regulations, Practices, Programs, and Policies	6. Youngest daughter had high lead levels. Worked with GLO and ABC to become more knowledgeable about lead. Feels that we need a stronger law on lead.	Shamika Bush	1(a)	No response required.

E-4

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	7. Need financial support for landlords, tax incentives, tax credits, and revolving loan funds. We can all work together as a community to advocate the passage of that kind of legislation so that the costs are spread and borne as they should be, throughout the State, throughout the Country for this problem.	Kathy Lewis Debbie Ajewole Mo-Chih Hwang William Gerling	5	<p>Potential mitigation measures related to financial support for landlords during the implementation of an ordinance are discussed in Section 5.6.1.2 of the Draft GEIS.</p> <p>Income tax credits cannot be issued by City of Rochester – only State or Federal government.</p> <p>City policy concerning property tax incentives are under the purview of the Council and the Mayor. Consideration of such incentives can be considered outside the context of this lead poisoning prevention ordinance as a potential mitigation measure.</p>
	8. How does targeting money away from properties that need it the most protect the children? Is it true that the criteria for receiving a HUD grant targets the funding away from property owners that are in most need?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	9. Data from the city of Milwaukee pilot ordinance showing an average cost of \$1,614 to make housing units lead safe (DGEIS 2-14). Adjusted forward 4 years for inflation, this equals \$1,750 in 2005 dollars.	The Coalition to Prevent Lead Poisoning	2	The average cost of \$1,614 from the City of Milwaukee pilot project was not used in the analysis. In addition, HUD funds were secured and allocated for this project in advance of the ordinances' effective date and were used extensively in this program. The \$1,614 did not include the costs funded by HUD grants. Elsewhere in the study, it was estimated that \$4,165 was the average benefit to a property owner participating in the program, which essentially

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
				accounted for the window work paid for by HUD funds.
	10. Was the Milwaukee Pilot Ordinance implemented state wide or community wide?	The New York State Coalition of Property Owners & Businesses, Inc.	3	The Milwaukee Residential Rental Property Lead-Based Paint Hazard Control Pilot Project was a highly targeted 3-year project to control lead paint hazards in pre-1950 rental properties in two neighborhoods in the City of Milwaukee, Wisconsin. For further details, see Section 2.4.1 of the Draft GEIS.
§3.0 Alternatives	11. Isn't it true that the "Certificate of Lead Compliance" will become invalid if the resident does not routinely keep the unit clean? (As noted in the CGR report, even Lead Free houses may fail a dust wipe screen if cleaning is not part of the occupants routine)	The New York State Coalition of Property Owners & Businesses, Inc.	3	Proper cleaning of living space is a fundamental factor in maintaining lead safety. A "Certificate of Lead Compliance" issued when there are no lead hazards is good for one year. Properties holding a valid certificate are subject to re-inspection upon the request of any lawful occupant of a building other than the owner of rental property, or with respect to potential exterior hazards, by an adjoining property owner or occupant or any other person who may be affected by an exterior lead hazard. The presence of lead dust above established HUD standards could result in an invalidation of an issued Certificate of Lead Compliance.
	12. Will or should the codes address how parents will be held accountable should their children be poisoned because of the lack of routine cleaning?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	13. The C of O method of targeting pre-1978 home for lead would be very effective and all rental properties would be treated fairly.	Lee Houston	1(a)	No response required.
	14. Isn't it true that the "Certificate" may in fact produce the opposite effect due to the requirement of a risk assessment?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	15. Would this "Certificate" be the best use of resources in producing lead safe housing?	The New York State Coalition of Property Owners & Businesses, Inc.	1(c)	No response required.
	16. Wouldn't a new window which has a lasting protection produce a better cost value to the community compared to the cost of a certificate?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	17. Wouldn't it be a financial waste to perform dust samples on a unit that failed a visual inspection before performing Lead Hazard Control?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	18. Is it not a waste of financial resources to require a full Lead-Based Paint inspection where de minimis conditions are found only in one room?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	19. How will the city implement this requirement (Certificate)?	The New York State Coalition of Property Owners & Businesses, Inc.	5	The implementation strategy for the Certificate requirement can be found in Section 60-102(B)(2) of Alternative 1 (Introductory #20). Text has been added to Section 3.1.2 of the GEIS to provide more details on the proposed implementation methodology for Alternative 1 (Introductory #20).

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	20. Who will keep track of the time period associated with the “Certificate”?	The New York State Coalition of Property Owners & Businesses, Inc.	5	A currently undefined department within the City of Rochester administration would be responsible for tracking the time period associated with the “Certificate” under Alternative 1 (Introductory #20). A statement to this effect has been added to Table 3.1.
	21. What procedures will be in effect if home owner/housing provider is involved in a grant or program that takes much longer than 120 days from start to completion?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Should Alternative 1 (Introductory #20) be enacted, a policy would be developed to address any stay of compliance timeframes.
	22. There is some confusion in the community as to the ramifications of a risk assessment. If a risk assessment is conducted on a property, can the landlord install new windows and doors themselves?	The New York State Coalition of Property Owners & Businesses, Inc.	3	An opinion from USEPA has been sought by the City of Rochester to clarify this matter, however, a written opinion was not obtained in time for publication of this FGEIS. However, in conversation with Mr. Louis Bevilacqua, Lead-based Paint Unit, USEPA Region 2 and Bob Barrows, Director of Rochester’s Bureau of Housing and Project Development on November 29, 2005, it was suggested that it would be unlikely that the City Would invoke USEPA rules and regulations in this regard by its actions. The City of Rochester will continue to work with USEPA to obtain written clarification on this issue.

GEIS SECTION	COMMENT	COMMENTS	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	23. Isn't it true that once a risk assessment is conducted that a certified EPA lead contractor must perform abatement (removal and replacement of windows and doors)?	The New York State Coalition of Property Owners & Businesses, Inc.	3	An opinion from USEPA has been sought by the City of Rochester to clarify this matter, however, a written opinion was not obtained in time for publication of this FGEIS. However, in conversation with Mr. Louis Bevilacqua, Lead-based Paint Unit, USEPA Region 2 and Bob Barrows, Director of Rochester's Bureau of Housing and Project Development on November 29, 2005, it was suggested that it would be unlikely that the City Would invoke USEPA rules and regulations in this regard by its actions. The City of Rochester will continue to work with USEPA to obtain written clarification on this issue.
	24. Would requiring a risk assessment and the need to use an EPA certified contractor lead to more abandonment of city properties?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	25. Would requiring a risk assessment be a waste of financial resources?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	26. If the housing provider/property owner does not have the funds to comply with the lead legislation and the city takes the property would this be considered a taking?	The New York State Coalition of Property Owners & Businesses, Inc.	3	It is not the intent of the City of Rochester to use the implementation of a lead poisoning prevention ordinance to acquire privately owned property. In instances where owners do not comply with a City order to address lead-based paint hazards, and incur the fines for noncompliance, then a property could ultimately be placed in a tax foreclosure offering.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	27. Isn't it true that the most effective means to producing a lead safe house is the replacement of windows and doors (friction areas)?	The New York State Coalition of Property Owners & Businesses, Inc.	3	According to statements made by the MCDPH on October 27 th , 2005 at a special meeting of the City Council's Housing and Economic Development Committee the largest source of lead-based paint hazards is deteriorated paint, principally in windows. It could be assumed that due to windows being a significant source of lead hazards, the replacement of such windows (and doors) would be one of the most effective means to reduce lead hazards.
	28. Isn't it true that there are no loop holes in the EPA standards if the intent was abatement?	The New York State Coalition of Property Owners & Businesses, Inc.	3	EPA allows an exemption from compliance with Part 745, Subpart L at §745.220(b).
	29. Knowing that Section 8 has had great success using the visual inspection process, wouldn't be safe to assume that this same process could be very beneficial for the City of Rochester to adopt? Thereby not activating EPA standards and giving landlords the ability to do their own work using lead safe work practices and perhaps making it more feasible to replace windows and doors as opposed to using interim controls?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Comment noted. This comment is consistent with Alternatives 2 and 3.
	30. Would requiring housing providers to pay for lead paint inspections reduce the amount of financial resources available to do either paint stabilization and/or lead paint abatement?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	31. Would transferring the cost of inspections which are now the responsibility of the government to the property owner interfere with the investment back expectation?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	32. Is there a reduced risk of lead poisoning among residents of City of Rochester if lead inspections and corrective action taken to stabilize and/or abate lead paint hazards are conducted on vacant homes rather than occupied?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	33. Would it be cost effective for housing providers to complete lead interim controls on homes that are vacant?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	34. Is there any protection for the landlord when the tenant damages the property and keeps calling for a risk assessment?	The New York State Coalition of Property Owners & Businesses, Inc.	4	Alternative 1 (Introductory #20) provides for landlord protection in §60- 402. Alternative 2 (Introductory #21) provides for landlord protection in §90-62 (C). Alternative 3 (NYS Coalition of Property Owners and Businesses) provides for landlord protection in §90-63 (G).
	35. In Wisconsin, in order to reduce costs, the certificate requirement was waived if grant funds were not available, risk assessments and re-inspections were performed by the Health Department at no charge. Would this stipulation be of value to the City of Rochester to further aid the landlords in producing lead safe housing?	The New York State Coalition of Property Owners & Businesses, Inc.	6	The Milwaukee Residential Rental Property Lead-Based Paint Hazard Control Pilot Project was a highly targeted 3-year project to control lead paint hazards in pre-1950 rental properties in two neighborhoods in the City of Milwaukee, Wisconsin that has since ended. See Section 2.4.1 of the Draft GEIS. The City LEAD program to assist property owners in creating lead safe housing (See Section 2.3.1.1 of the Draft GEIS). Program funds combined lead paint inspections and risk assessments for each

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
				property enrolled. The level of funding currently available is insufficient to meet the needs of every property owner in the City.
	36. The “Certificate of Lead Poisoning Prevention Code Compliance” was explained in detail but impact or value of its usefulness was not mentioned in the GEIS report. What is the purpose of the certificate?	The New York State Coalition of Property Owners & Businesses, Inc.	3	According to Alternative 1 (Introductory #20), Section §60-104 (C)(1), a "Certificate of Lead Poisoning Prevention Code Compliance" is a certification on a form prescribed and made available by the Department, executed by a certified lead inspector, or lead-based paint risk assessor confirming that an examination of the property has been made and that as of the date of the certification the examiner found the property to be in compliance with the standards described in §60-106.
	37. Isn't it true that the “certificate” is only valid the day it is issued, with lead being a natural element in our environment?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	38. There is a need to not place the burden on rental property owners only, we need to attack the problem where the children are. The ordinance should work with all property owners and be fair.	John Buzzelli Mo-Chih Hwang	1(a)	No response required.
	39. Primary prevention legislation is needed. Please, let's adopt provisions that support, even demand, targeted efforts that are community resources can be spent to accomplish. Eliminate the hazards from areas in the city where we know they exist.	Dr. David Broadbent	1(a)	No response required.
	40. Legislation should target homes that are known to have lead hazards.	Brenda Serrano Derrick Hazle League of Woman Voters	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	41. Focus on how we are going to work together to absorb cost of eliminating something that will cost us homeowners and landowners upfront but is clearly made up in special education, medical care, criminal justice services and loss of quality of life.	Eleanor Coleman	1(a)	No response required.
	42. Clearance Standards for porches is too low. There are currently no EPA standards for open porches due to lead in our environment. Why did GEIS not report this?	The New York State Coalition of Property Owners & Businesses, Inc.	5	It is true that there is no EPA standards for porches. All three alternatives including that proposed by NYS Coalition of Property Owners have identical clearance standards for porches (See Table 3-1 "Clearance Standards")
	43. It is stated rent withholding will be after 6 months. What will the protocol be in the winter?	The New York State Coalition of Property Owners & Businesses, Inc.	3	In all three alternatives, conditions are discussed concerning weather and other related restrictions that implicate certain lead hazard control measures. Under Alternative 1 (Introductory #20), the discussion is presented in §60-110 (B) and §60-404 (B) and (C). Under Alternative 2 (Introductory #21), the discussion is presented in §90-60 (B). Under Alternative 3 (NYS Coalition of Property Owners and Businesses), the discussion is presented in §90-61 (B).
	44. Will rent withholding occur if landlord is trying to obtain a grant? Grants that are available now take far longer than 6 months to implement.	The New York State Coalition of Property Owners & Businesses, Inc.	1(c)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	45. There are families living in those houses affected and those houses are part of neighborhoods which are a part of the city. There is nothing in the report that reads whether any of those three policies will result in impacts. In the post-Katrina climate public officials should be more careful on how they present their policies to the public, so when the levy breaks down, we don't start blaming the big things. The policies presented do not support the evidence in the report, and we have to keep working to find better policy decision.	Juan Padillo	1(a)	No response required.
	46. The ordinance must protect tenants from being punished for asking for lead-safe housing.	Derrick Hazle Dr. Elaine Spaul	1(a)	No response required.
	47. Does the city understand that for every Housing Provider that is sued, that is one more property or properties deleted from the cities tax base?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	48. Is it the intent of the city to encourage tenants to sue housing providers for the "Lead Dilemma" they did not create?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	49. Title X of New York Public Health Law sets out a comprehensive plan for detection and remediation of lead Based Paint Hazards. Is the City concerned that this area has been pre-empted by New York's Public Health Law?	The New York State Coalition of Property Owners & Businesses, Inc.	4	No, the City of Rochester's intent to enact a lead poisoning prevention code is taken in the absence of affirmative, proactive action by the State of New York. Title X was originally enacted in 1970, with subsequent amendments in 1992. This statute does not embrace primary prevention as its basic operating philosophy.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	50. Who will monitor or prove disclosure was orally done?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Alternative 1 (Introductory #20) mandates property owners to disclose to the purchaser or tenant, both orally and in writing, the presence of any known or presumed lead-based paint and/or lead-based paint hazards (See §60-304 (B)(2)). Pursuant to §60-304 (C)(3), the seller or lessor is obligated to provide an acknowledgement signed by the purchaser or tenant that the oral disclosure has been provided. There are no oral disclosure requirements included in Alternatives 2 or 3.
	51. We need to push for lead safe practices and training.	Brenda Serrano Derrick Hazle Dr. Elaine Spaul	1(a)	No response required.
	52. The city needs most comprehensive ordinance- not one with loop holes.	Derrick Hazle	1(a)	No response required.
	53. Enacted policy should have at its core an educational emphasis.	Derrick Hazle	1(a)	No response required.
	54. Property owners must provide assurance that properties are lead safe, but we as a government may need to help these landlords. We must demand open disclosures so tenants are protected. Tenants and neighbors must be notified of lead-related construction.	Dr. Elaine Spaul	3	Disclosure requirements for notification of lead-related construction are discussed in all three alternatives (See Table 3-1). Under Alternative 1 (Introductory #20), the discussion is in §60-203 (C)(D)(E)(F)(G). Under Alternative 2 (Introductory #21), the discussion is in §90-57 (C)(E)(F). Under Alternative 3 (NYS

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
				Coalition of Property Owners and Businesses), the discussion is in §90-58 (B)(C)(D)(F)(G).
	55. Who will clean the unit to insure the unit passes dust wipes?	The New York State Coalition of Property Owners & Businesses, Inc.	1(b)	No response required.
	56. Legislation should include a requirement for clearance testing after lead hazard work is conducted.	League of Woman Voters	3	<p>All three alternatives require clearance testing after lead hazard work is conducted (See Table 3-1).</p> <p>Alternative 1 (Introductory #20), see §§60-105 (C)(2), 60-106(D) and (E), 60-206(A)(6) for when a clearance examination is necessary and §60-105 and 60-106 for what occurs upon completion of a clearance examination.</p> <p>Alternative 2 (Introductory #21), see §90-56 for when a clearance examination is necessary and §90-56(D) for what occurs upon completion of a clearance examination.</p> <p>Alternative 3 (NYS Coalition of Property Owners and Businesses), see §90-56(A) for when a clearance examination is necessary and §90-54(D) for what occurs upon completion of a clearance examination.</p>
	57. Will enforcement be a useful tool to make landlords produce lead safe housing if they can not afford to do so?	The New York State Coalition of Property Owners & Businesses, Inc.	1(b)	No response required.
	58. Is the city and county prepared to join us [property owners] financially in the task of creating lead safe housing?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	59. Will City Judges be trained in Lead Safe Work Practices and Lead Risk Assessment so they will intelligently be able to decipher a tenant's intent of getting out of paying the rent?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Enforcement actions taken under all three alternatives will be processed through the Municipal Code Violations Bureau. Any need for specialized training of City court personnel would need to be determined by the supervising City Court judge.
	60. Is being required to use a certified lead contractor cost effective in the overall process of making housing lead safe?	The New York State Coalition of Property Owners & Businesses, Inc.	3	<p>Depending on the circumstances, there are instances where it is required that certified lead contractors perform lead hazard control measure based upon EPA regulations. Under these circumstances, the City of Rochester has no ability to alter Federally dictated requirements.</p> <p>In general, utilizing certified lead contractors to address identified lead hazards is more expensive than hiring non-certified contractors or the property owner completing the work themselves.</p> <p>However, according to the Rochester Bureau of Housing and Project Development, the use of a certified lead contractor is cost effective as results in almost all instances are well run lead hazard control projects that are completed to specifications. Using lead certified contractors in most cases reduces the need for additional follow up work at the unit, saving both time and money, while protecting residents.</p>

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	61. Is requiring dust wipes cost effective in the overall process of making housing lead safe when landlords clean to pass the dust wipe and that is not a true indication of the result?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Based upon EPA clearance testing protocol, dust wipes are a mandated component of the process. Post-hazard reduction cleaning is standard protocol before clearance examinations are performed. Such cleaning serves to remove any lead contaminated dust or debris which may have been released during the remodeling process.
	62. Need to address lead problem so that it doesn't undermine the City policies which are embedded in Rochester 2010 Renaissance Plan.	Derrick Hazle	1(a)	No response required.
	63. In Alternative #1, requiring homeowners to hire an EPA certified risk assessor is absolutely ridiculous and extremely costly. This is money that is being taken away from lead hazard control.	Lee Houston	1(a)	No response required.
	64. The DGEIS states: <i>"Alternative 3 is the only alternative of the three that contains language specifying that dwellings occupied by a child under the age of 6 may be subject to a Notice and Order requiring removal of deteriorated lead-based or presumed lead-based paint prior to further activity."</i> The Coalition to Prevent Lead Poisoning agrees that a strong response to detection of a lead hazard is needed for a successful lead poisoning prevention ordinance. A provision to detail response should be added to Alternative 1.	The Coalition to Prevent Lead Poisoning	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	65. Too much time has been wasted on Alternative 1 which is a convoluted, excessive, unworkable plan.	Lee Houston	1(a)	No response required.
	66. There was mention of an additional insert for disclosure under Alternative #1. What was the wording of this insert? The insert states, "If landlord fails to comply with the code you have protections such as Abatement of rent. Legal Assistance may be available at no charge to you by calling_____." Is this not an advertisement for the tenant advocate attorney that wrote the Alternative #1?	The New York State Coalition of Property Owners & Businesses, Inc.	3	This provision can be found in §60-304 (D)(3) of Alternative 1 (Introductory #20).
	67. Supports the proposal by Tim Mains. It is the proposal that will give us the opportunity to stop kids from being poisoned by 2010.	Larry Burnette Dr. Richard Kenney Jana Carlisle Katrina Korfmacher Brian Hetherington	1(a)	No response required.
	68. Mains legislation is the most comprehensive and the right thing to do for our community and our children.	Mel Callan	1(a)	No response required.
	69. Who performs Clearance examination under Alternative #1? New York has no certification for technicians.	The New York State Coalition of Property Owners & Businesses, Inc.	3	According to Alternative 1 (Introductory #20), a certified risk assessor, certified lead-based paint inspector, or a person who has successfully completed an EPA-accepted training course for sampling technicians (see §60-106(A)) performs clearance examinations. Clearance examinations under §60 would not be regulated by NYS.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	70. It appears that Alternative#1 is not only concerned about protecting the children but also job creation. Isn't there a conflict of interest and a possible discrimination to landlords that do their own repairs?	The New York State Coalition of Property Owners & Businesses, Inc.	4	The ability of landlords to undertake repairs will be dictated by the level of work required and the Federal rules that govern who can perform lead hazard work.
	71. RHA encourages the City to adopt Introductory 21 as its ordinance for the prevention of lead poisoning.	Rochester Housing Authority	1(a)	No response required.
	72. The City's Alternative #2 is extremely close to being a workable lead code. Working with homeowners to make slight modifications to the Alternative #2 would make the code effective and easy to implement.	Lee Houston	1(a)	No response required.
	73. Alternatives 2 and 3 allow for compliance with ordinances but still allow lead poisoning to continue.	Katrina Korfmacher	1(a)	No response required.
	74. Alternative 3 provides the greatest degree of protection for its most at-risk population. The ordinance must protect the children and not punish the property owner.	David Ahl William Gerling Bill Beyerbach	1(a)	No response required.
	75. Alternative 3 provides the proper roadmap to abate this difficult situation.	William Gerling	1(a)	No response required.
	76. Alternative 3 has the least negative impact on the housing market, yet is the most effective.	Bill Beyerbach	1(a)	No response required.
	77. The no action alternative not acceptable.	Joan Roby-Davidson	3	An evaluation of the No-Action Alternative is discussed in Section 3.4.2 of the Draft GEIS. This discussion states, "Although the no-action alternative is considered unreasonable, it is addressed in the GEIS to provide a baseline for comparison of the impacts of the alternative ordinances."

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
§4.4 Existing, Environment, Certified Lead Abatement Contractors	78. How many NET inspectors have taken the Lead Safe Work Practices Course?	The New York State Coalition of Property Owners & Businesses, Inc.	3	The City of Rochester has three employees (NET inspectors) that have completed the Lead Safe Work Practice training.
	79. Is it true that inspections of housing to check for health and safety violations is the responsibility of the government?	William Beyerbach	3	Yes, it is the responsibility of the government to check for health and safety violations during housing inspections.
	80. How many NET inspectors are certified lead risk assessors?	The New York State Coalition of Property Owners & Businesses, Inc.	3	There are no NET inspectors that are certified lead risk assessors.
§4.6 Existing Environment, Housing	81. The vacancy rates seem to be only assumptions, the actual rates are greater than 10%.	Bill Beyerbach	3	Vacancy rates were obtained from the 2000 US Census. This data was utilized due to the ability to query on distinct neighborhoods of the City and it is the most comprehensive data available for that purpose. A description of the overall vacancy rate for the City of Rochester is presented in Section 4.6.1 of the GEIS. Vacancy by neighborhood (which was obtained through the US Census data) was used in housing impact calculations and ranged from 3.6% to 20.9% throughout the City of Rochester.
	82. Has there been a study done to determine if properties in the low income neighborhoods where property values have been declining may be over leveraged?	William Beyerbach	1(b)	No response required.
	83. The EIS needs to evaluate the flat nature of rents. Rent is up 2.0 to 2.5% between 2000-2005. Mortgages exceed value of property so that selling the property is not an option, unless outside help is offered these houses will result in foreclosure.	Bill Beyerbach	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	84. Wouldn't it be safe to assume that owner-occupied housing could contain more lead hazards due to the absence of inspections and the lack of lead knowledge by owner-occupant?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
§4.7 Existing Environment, Human Health	85. Can we acknowledge that there are other causation factors than lead that contribute to problems such as low academic achievement, impacts on crime and poverty?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Other potential causation factors are acknowledged in the GEIS in Section 5.7, under the heading "Learning disabilities and other socioeconomic factors not related to lead poisoning."
	86. Other sources of household products that may contain lead: painted toys, lead crystal, pottery, Mexican candy, lead water pipes, soil, etc. What does the GEIS recommend to protect children from these products?	The New York State Coalition of Property Owners & Businesses, Inc. Jean Longchamps	5	The legislative actions under consideration involve protection of City residents from exposure to lead-based paint hazards found in housing.
	87. Someone needs to take a look at the cases in the City School district and link that to the lead poisoning epidemic of lead poisoned children.	Lori Alicie	5	This comment has been referred to the Rochester City School District for consideration.
	88. The analysis should be emphasizing the mental health issues related to Lead Poisoning.	Ralph Spezio	3	The GEIS presents a summary of human health issues related to lead poisoning. See Section 5.7.
	89. Isn't it true that if testing was vastly performed on a specific group than the results would be indicative of that group and not a true indication of the needs of all the children?	The New York State Coalition of Property Owners & Businesses, Inc.	3	It may be true that if a "specific group" is tested more heavily than another group, the results would be skewed towards the characteristics present in the group that is tested more.
	90. Is it true that the testing did not reveal the lead problems that may be present in other areas of the city?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Testing did reveal children contaminated with lead in other areas of the City. However, screening rates are better in certain zip codes/census tracts; thus, problems may be more apparent in those areas. The methodology utilized by the MCDPH for their screening

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
				program is based on the NYS DOH lead screening law, which states that children will be tested at 1 and 2 years of age. There is no requirement for testing beyond age 2. State guidelines recommend that children living in pre-1960 homes with signs of deteriorated paint have follow-up blood tests.
	91. Is it true that not all pediatricians follow the state guide lines concerning the testing of children at specific ages for lead poisoning?	The New York State Coalition of Property Owners & Businesses, Inc.	1(b)	No response required.
	92. Who is the monitoring agency of this testing and why haven't they enforced the state guidelines?	The New York State Coalition of Property Owners & Businesses, Inc.	1(b)	No response required.
	93. Have there been any studies on lead poisoned children that live in the suburban areas and their behavior compared to lead poisoned children that live in the city and their behavior?	The New York State Coalition of Property Owners & Businesses, Inc.	3	No studies were found or presented that compared lead poisoned children that live in suburbs compared with lead poisoned children in the City and their respective behaviors.
	94. Need to research the total number of children who are lead poisoned. Only the children on Medicaid have been included in the current figures.	Mary Delassandro The New York State Coalition of Property Owners & Businesses, Inc.	3	The MCDPH ELB screening data from 2004 includes information on all children tested, regardless of the type of health insurance. Under NYS law, all children are to be tested at ages 1 and 2, regardless of the type of insurance they hold. Subsequent testing is recommended beyond age 2 if the parents report to the physician that the home has deteriorated paint. It is difficult to quantify this data as follow-up testing relies on two major factors: (1) the doctor asking a series of at-risk questions

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
				and (2) the parent responding honestly. However, even though testing beyond age 2 is not required by NYS DOH law, it still does not indicate whether the child has Medicaid or private insurance.
§5.0 Impact Analysis	95. It appears Alternative #1 is discriminatory in its targeting process. There are certainly more protections under this code for black children than white children. Should a child in another area of the city become poisoned will discrimination be a liability issue for the city?	The New York State Coalition of Property Owners & Businesses, Inc.	3	There are no references to the race of children found in Alternative 1 (Introductory #20).
	96. As property owners face increased costs due to the development of a code that places the most burdens on them or as they experience an unequal distribution of financial responsibility, wouldn't it be a fair assumption that this will cause a further decline in communication and respect of City Leaders?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	97. Wasn't the information in the AREUEA report based on areas of the country with healthy housing values?	The New York State Coalition of Property Owners & Businesses, Inc.	3	The AREUEA report was not necessarily based on areas of the country with "healthy housing values." The study performed and presented in the AREUEA report was based in Baltimore, MD with data collected in the 1970's and also data collected and analyzed in 1984. The surveys conducted were primarily concentrated in severely declining areas where the housing stock was not in good quality physically, and financially it exemplified many of the characteristics of housing in areas around the City of Rochester. For example, vacancy rates and

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
				nonpayment of rent were both high in the areas surveyed, in addition, the assessment values in the slums are often higher than the market values.
§5.2 Impact Analysis, Land Use	98. GEIS mentions that there should be no change in land use. We should be prepared for abandonment. And if abandonment does occur especially in the targeted areas what will the change in land use be. The current land use of vacant houses is boarded up houses that are now the home of drug dealers and unstable neighborhoods. Will this change?	The New York State Coalition of Property Owners & Businesses, Inc.	3	While the types of activities mentioned in the comment may potentially occur in homes that are abandoned, the actual designated land uses will not change in residential areas regardless of abandonment of residential structures. See Section 5.2 of the GEIS.
§5.3 Impact Analysis, Community Facilities and Resources	99. Who will monitor the requirements of the seller's agents to ensure compliance during property transfers?	The New York State Coalition of Property Owners & Businesses, Inc.	3	The provisions found in §60-304 (F) does not reference a monitoring requirement. Enforcement provisions are referenced in §60-307. There are no references to "sellers agents" found in Alternatives 2 or 3.
	100. How many additional employees will the city need to inspect work in progress, issue stop work orders and educate city inspectors on the procedure?	The New York State Coalition of Property Owners & Businesses, Inc.	5	An additional six positions would be anticipated.
	101. With the decline in properties on the tax rolls, will programs that are now currently helping people in the targeted areas have to be discontinued?	The New York State Coalition of Property Owners & Businesses, Inc.	1	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
§5.4 Impact Analysis, Certified Lead Evaluation Firms	<p>102. Analysis of the need for additional certified lead evaluation workers, page 5-3:</p> <p><i>“Under Alternative 1, housing units that would be considered affected properties and potentially subject to evaluation, would be those renter-occupied homes built pre-1980 [sic]* plus owner-occupied units built pre-1960.”</i></p> <p>Correcting this error will decrease the assumed need for additional certified lead evaluation workers.</p> <p>*additional minor error: should read “pre-1978”</p>	The Coalition to Prevent Lead Poisoning	2	<p>With respect to owner-occupied housing units, §60-104(B)(1) describes target housing as “...all owner-occupied residential units constructed prior to 1960, except that with respect to</p> <ul style="list-style-type: none"> owner-occupied housing, or housing designated by a state or federal housing program as having been developed for the elderly or for persons with disabilities, and "zero bedroom" housing. <p>Such housing is not considered target housing unless a child who is 6 years of age or younger resides in or is expected to reside in such housing, or is likely to play in or around such housing.”</p> <p>This change was incorporated into the GEIS where applicable and resulting changes to the overall analysis were integrated in Section 5.6.1.1. of the GEIS.</p> <p>In addition, the year 1980 was used due to the more readily available and comprehensive data available for time periods corresponding to decade separations, rather than using 1978.</p>

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	<p>103.Delete paragraph on page 5-3 starting with “Under Alternative 1...” and up to the end of the page including table 5-1.</p> <p>Replace with: “Alternative 1 offers the greatest flexibility allowing the city to maximize the effectiveness of available inspection capacity by adjusting the number of inspections as capacity grows in response to the passage of the local ordinance. More importantly, Alternative 1 will permit the city to use that capacity in the most effective manner by permitting the use of targeting indicators accepted by HUD and public health officials as the most reliable criteria for identifying the housing most likely to contain lead hazards. By using this targeting ability the City can maximize its resources to reach, within the first two or three years of the implementation of the ordinances, the approximately 7,000 to 11,000 rental units and approximately 100 owner units, identified in HUD’s Comprehensive Housing Affordability Strategy “cross-tab” data as the most hazardous. That flexibility will most effectively reduce the increased costs of conducting housing inspections while simultaneously enhancing the ordinance’s favorable impact of reducing incidents of lead poisoning. In fact, by using the demographic and housing units indicators suggested by HUD and in the professional</p>	Empire Justice Center	4	The GEIS text has been revised in Section 5.4 to reflect this comment.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	<p>literature, the city can expect to reach, within two or three years, the vast majority of children who are presently at greatest risk of poisoning, Alternative 1 thus simultaneously offers the greatest health benefit with the least adverse economic impact.</p> <p>Replace table 5-1 with the two tables provided: “Rental Units at Highest risk in the City of Rochester” and “Homeowner Units at the Highest Risk in the City of Rochester”</p>			
	104. The Draft GEIS includes incorrect assumptions about the “Roll-out” procedures for Alternative One, and underestimates the favorable environmental impact afforded by that proposal’s flexibility to target inspections	Empire Justice Center	4	<p>Section 5.4 has been expanded to reflect the language from Alternative 1 (Introductory #20) with respect to roll out provisions of the proposed ordinance.</p> <p>Text has been added to Section 5.7 addressing the potentially beneficial environmental impacts associated with Alternative 1’s (Introductory #20) targeting provisions.</p>
	105. Alternative one does not specify any distribution for inspections whatsoever. By design, alternative 1 is structured to most effectively get to units with lead hazards not by increased volume, but by judicious targeting.	Empire Justice Center	1(a)	No response required.
	106. The figure for homeowner units used in the Draft GEIS (Approximately 32,000 of the nearly 83,000 units identified in the draft) is far larger than the actual number of homeowner units that need to be inspected and would be required to be inspected under alternative 1.	Empire Justice Center	4	It is understood under Alternative 1 (Introductory #20) that a minimum of 5,095 homeowner (owner-occupied) units would need to be inspected (see Section 5.4). However, the other qualifications of “target housing”

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
				found in Section 60-104 (B)(1) would require some additional, undetermined number of the additional 27,115 homeowner units to be considered for inspection.
	107.The draft fails to take into account that the flexibility provided by the targeting feature of Alternative 1 means that we will, in all likelihood, be able within five years to come close to reaching the goal for the elimination of lead poisoning in children <i>without inspecting every unit in the city.</i>	Empire Justice Center	5	Text has been added to Section 5.7 addressing the potentially beneficial environmental impacts associated with Alternative 1's (Introductory #20) targeting provisions. Additionally, a statement has been added to Section 5.7.6 of the GEIS regarding each of the proposed alternative's ability to reach the goal of being lead safe by 2010.
	108.What kind of effect will there be on landlords should there not be enough risk assessment firms available to accommodate the need on the initial roll out especially with the strict enforcement of fines and rent discontinuance as stated in Alternative #1?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Alternative 1 (Introductory #20) is largely silent on issues of enforcement as they relate to Article 1. Alternative 1 (Introductory #20) includes an article identified as "enforcement" (Article 5), however, this section is noted as "To Be Added" but was never incorporated. Under Alternative 1 (Introductory #20), Section 60-404 (B) addresses conditions under which rent can be withheld. However, these provisions only apply to identified violations and not failure to inspect, which would be dependent on the availability of risk assessment firms as the comment suggests.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	109. EPA certified inspectors can do two or more inspections per day, this doubles the utility of existing pool of risk assessors. Also when the ordinance gets passed, if there is an increased demand for inspectors, there will automatically be a response by 18 organizations that are on the City's contractors list that can provide inspections to increase their supply of inspectors, therefore, increasing the capacity to do the inspections.	Larry Burnette	1(a)	No response required.
§5.5 Impact Analysis, Socioeconomics	110.The GEIS did not comment on the cost to the city to implement and follow through with Alternative #1. How much will it cost to implement Alternative#1?	The New York State Coalition of Property Owners & Businesses, Inc.	5	<p>The actual cost of implementation to the City of Rochester is beyond the scope of this report to estimate.</p> <p>The implementation strategy for the Certificate requirement can be found in Section 60-102(B)(2) of Alternative 1 (Introductory #20).</p> <p>Potential costs associated with implementation of Alternative 1 (Introductory #20) include additional inspectors to perform inspections, additional personnel to track and manage the new Certificate process, additional monies to notify landlords, coordinate with landlords and tenants, and govern tenant protection.</p>

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	111.How much will it cost the city to notify and educate the landlords of the requirements of Alternative #1?	The New York State Coalition of Property Owners & Businesses, Inc.	5	<p>The actual cost to the City of Rochester for the notification and education of the landlords is beyond the scope of this report to estimate quantitatively.</p> <p>The notification process would be part of the total implementation cost to the City of Rochester, see Response to Comment #110.</p>
	112.How much will it cost the City to follow through on the specifications set forth for paint retailers in Alternative #1?	The New York State Coalition of Property Owners & Businesses, Inc.	5	<p>The actual cost to the City of Rochester for implementing and enforcing specifications to paint retailers is beyond the scope of this report to estimate quantitatively.</p> <p>The specifications for paint retailers would be part of the total implementation cost to the City of Rochester, see Response to Comment #110.</p>
	113. It has been reported by GEIS that in the report by the CPLP committee “Fund the Fix” that little or no resources exist for landlords who do not qualify for government programs. What impact would the lack of funding have on our community if Alternative 1 was the chosen lead code for the City of Rochester?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Potential mitigation measures related to financial support for landlords during the implementation of an ordinance are discussed in Section 5.6.1.2 of the Draft GEIS.
	114. It is well known that the Department of Health has closed their grant and that there is no money available through next year for that grant. With little or no funding available how will housing providers accomplish lead safe housing?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Potential mitigation measures related to financial support for landlords during the implementation of an ordinance are discussed in Section 5.6.1.2 of the Draft GEIS.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	115. In reference to Alternative #1 (Introductory #20), would targeting low income neighborhoods and using enforcement as a means to compel housing providers to perform work that they have no financial resources to draw from to support such work, would this have an adverse effect on the investment backed expectations of property owners?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Potential mitigation measures related to financial support for landlords during the implementation of an ordinance are discussed in Section 5.6.1.2 of the Draft GEIS.
	116. Isn't it a common practice that if an investment is performing poorly, the reasonable solution would be to pull out of that investment so that it no longer depletes your financial reserve?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	117. With the high number of vacant housing in the low- income areas, isn't it reasonable to assume that it is very difficult-to-almost impossible to sell a house in those areas?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	118. How much will it cost the city and county to house those that can not find lead safe housing when this legislation goes into effect?	The New York State Coalition of Property Owners & Businesses, Inc.	3	<p>The City would be under no legal obligation to house individuals unable to find lead safe housing.</p> <p>The 2000 Census reported that 5,261 rental units (or 9% of the total) were vacant and available for rent. This would appear to represent a sufficient number of units to house those who may be displaced.</p> <p>If displaced individuals become homeless, then Monroe County would be obligated to provide emergency housing. Emergency housing costs would account for approximately \$41.09 per day per person.</p>

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	119. Under EPA standards disclosure is only required as a result of a risk assessment. What costs will this provision in Article 3 of Alternative #1 cost the city to enforce?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Under Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, all property owners must disclose the presence of lead-based paint and provide prospective homebuyers and renters with any existing documentation on known lead-based paint hazards in the dwelling unit. The City would assume no responsibility for enforcing federal law.
	120. GEIS did not disclose the actual amount of Risk Assessments that could be required of a landlord in the time frame of one year. Isn't it true there are many triggers that can require a landlord to have to obtain 3 to 4 even more in a years time ate \$350-400 per visit?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	121. What will the cost to the city be to tear down houses, add additional police to combat crime that vacant housing brings?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	122. If the property owner doesn't have the financial resources to make the home lead safe then would this legislation help to reduce the risk of lead poisoning? If so how?	William Beyerbach	3	Potential mitigation measures related to financial support for landlords during the implementation of an ordinance are discussed in Section 5.6.1.2 of the Draft GEIS.
	123. Mr. Beyerbach submitted an analysis of the economic correlation to lead poisoning for reference.	William Beyerbach	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	124. Would targeting unstable neighborhoods without funding in place at the implementation of the legislation promote further decline in that neighborhood?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Potential mitigation measures related to financial support for landlords during the implementation of an ordinance are discussed in Section 5.6.1.2 of the Draft GEIS.
	125. Costs of inspections should be shared by both the City of Rochester and the property owner.	Joan Roby-Davidson	1(a)	No response required.
	126. The City inspectors should inspect for lead. The city has a large number of inspectors per capita and would not cost any more money if they would inspect for lead in addition to unlicensed vehicles and things that cause less harm.	Bill Beyerbach	1(a)	No response required.
	127. What is the cost for keeping databases up to date with lead violations? As stated in Alternative #1, City Court Judges will be able to access up to the minute information on lead violations. What expense will this be to the city?	The New York State Coalition of Property Owners & Businesses, Inc.	5	<p>Upon further review, no such provision to make up-to-the-minute information available to the City Courts is found in Alternative 1 (Introductory #20), other than in a “chapter note” at the end of Article 4.</p> <p>An initial setup cost for a customized lead hazard database is expected to be between \$5,000 and \$10,000 with ongoing maintenance cost less than \$20,000/year (roughly equivalent to a 20 hour per week commitment for a Clerk III position).</p>
	128. Wouldn't it be safer to assume Alternative #3 would produce more retail spending because housing providers usually do their own work?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	129. If certified lead contractors do the work, don't they usually order windows out of state to increase their profit as opposed to going to the local Home Depot?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	130. Why would Alternative #1 have the greatest impact on retail spending for home improvement?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	131. Will Alternatives #1 and 2 (Introductory # 20 and 21) possibly add to the city's delinquent tax payments on properties?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	132. Will the housing provider be able to determine who the attorneys phone number is that the tenant should call or will this be decided by Tim Mains?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	133. Tax revenue benefits estimates are vastly understated, since reducing lead poisoning would lower dropout and crime rates. The report fails to incorporate the improvement to the tax value, due to better schools, less crime, better looking neighborhoods, etc.	Brian Hetherington	4	These additional economic benefits to the City, community, and tax base are discussed qualitatively in Section 5.5.2.6 of the GEIS. A discussion of these theoretical benefits has been added to Section 5.5.3 – Tax Revenues. However, due to the nature of the data and the multiple factors potentially involved in education, crime, neighborhood appearance, it is impossible to attribute a financial value specifically to lead issues.
	134. Assuming the HUD grant program eligibility remains the same, would any of the proposals that contain an enforcement component lead to a decrease in the tax base?	William Beyerbach	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
§5.6 Impact Analysis, Housing	135. All three alternatives mention the need to be relocated yet the impact this will have is not discussed. Relocation may not be necessary unless the situation is extreme.	Lee Houston	3	<p>Alternatives 1 and 2 state that occupants shall be temporarily relocated during hazard reduction work under some circumstances (can be found in §60-204(A) for Alternative 1 (Introductory #20), and §90-58(A)(2) for Alternative 2 (Introductory #21)).</p> <p>Alternative 3 (NYS Coalition of Property Owners and Businesses) has the additional caveat that tenants shall be permitted to relocate during hazard reduction activities under some circumstances and shall not be liable for rents accruing during the relocation period. [§90-59(A)(1)]</p> <p>Relocation will not be granted in all cases and it is a generally accepted practice to work in vacant units. Thus, it is not anticipated that relocation due to hazard reduction work will be a significant impact.</p>
	136. The estimated cost of \$7500 is very reasonable and is based on interviews with professional property owners who do this work routinely.	Lee Houston	1(a)	No response required.
	137. What will the effect of forcing abandonment of housing while trying to create jobs have on our community?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	138.Is a risk assessment cost effective in the over all process in making housing lead safe?	The New York State Coalition of Property Owners & Businesses, Inc.	3	<p>In general, performing a risk assessment to determine the presence of lead hazards is more expensive than using a visual inspection.</p> <p>It is believed however, that a risk assessment is a more accurate indicator of whether there is a lead-paint hazard present.</p> <p>Depending on the circumstances, there are instances where a visual inspection would be sufficient and others where a risk assessment would be necessary to determine whether a lead-paint hazard was present, and due to these varying circumstances, the overall cost-effectiveness of either program cannot be determined.</p>
	139.All costs of each alternative are vastly overstated, while the benefits of Alternative 1 are understated.	Brian Hetherington	3	Text regarding the costs and benefits of each of the alternatives has been added to Sections 5.5 and 5.6 to expand upon the original analysis.
	140.Estimated cost of \$7500 based on CGR report, which is the cost to make housing lead-free. Cost should only be approximately \$3500 to make housing lead safe.	Brian Hetherington Katrina Korfmacher	3	<p>The CGR report assumes a cost of \$7,557 per unit to make housing units lead-safe. Additionally, there is a higher figure presented in the CGR report, which assumes a cost of \$70,000 for full gutting and rehabilitation of a typical 3-bedroom City of Rochester house to make lead-free. The source of both statistics is the Rochester Housing Authority, prior to the new HUD rule</p> <p>In addition, with respect to the</p>

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
				<p>\$7,500 figure from in the CGR report, it should be noted that the report further stated that “this was the cost prior to enactment of the new HUD rule, which will require more rigorous, and likely more expensive, work practices.”</p> <p>The cost of \$7,500 was also estimated based upon multiple documents and confirmed through local interviews.</p>
	<p>141. The DGEIS contractors used the <u>average</u> cost of remediation in the interviews and studies they cited as the basis for their calculation of costs against benefits. It would be more accurate, and significantly less expensive, to use the <u>minimum</u> needed cost for the purpose of benefit calculation. A number of factors can contribute to costs above the minimum, none of which can be fairly attributed to the <u>necessary</u> cost of remediating lead hazards. These include, for example, a decision by a property owner to use a more expensive method than needed, such as replacing windows rather than treating existing windows with methods such as aluminum track inserts. This decision may be made for a variety of good reasons, including improving the value of the property. However, it is not fair to attribute these additional costs to the effort to prevent lead poisoning.</p>	The Coalition to Prevent Lead Poisoning	3	<p>Due to the uniqueness of each property that would be potentially impacted under any of the alternatives, in addition to the unique financial situation of property owners, assuming an average cost was deemed the most appropriate method for assessing relative impacts.</p> <p>Stating a minimum cost of remediation, with absolute certainty, is impossible.</p>

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	142.All of the estimates rely on programs that enrolled properties with known lead hazards, rather than a random sample of city properties. That is, properties would not have enrolled in the various programs if they did not have a significant need for hazard reduction. It is clearly inappropriate to apply estimates derived from this biased sample of properties with known lead hazards as an average cost for the to the entire city housing stock, much of which may be found to have no hazards, or minimal hazards (such as paint touch-ups).	The Coalition to Prevent Lead Poisoning	3	The \$7,500 estimates used in the cost analysis based on a mix of properties enrolled in programs and non program costs. The cost of potential lead hazard control measures for homes was estimated from interviews conducted with local property owners and risk assessors, in addition to data obtained from previous studies. The average lead hazard control costs to make a typical home lead safe was approximately \$7,557 (\$8,140 in 2005 dollars) according to the CGR report (CGR 2002). Additionally, according to a report published in 1988 by the AREUA, a project in Baltimore, MD estimated lead hazard control costs at approximately \$3,815, which, inflated to current year dollars is equal to approximately \$6,410. According to a variety of interviews conducted with local contacts, and based upon the information from the two reports listed above, \$7,500 was determined appropriate for average lead hazard control work.
	143. The cost of making up for hazards due to months or years of deferred maintenance. While this may need to be done to remediate lead hazards, it is not fair to attribute all of these costs to lead poisoning prevention efforts alone. Had the property been well maintained over time, the cost of making it lead-safe would be significantly reduced.	The Coalition to Prevent Lead Poisoning	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	144. Several of the estimates are based on programs (such as those funded by HUD grant programs) that have additional requirements and procedures significantly increase their cost estimates. An owner obtaining compliance with the new local lead ordinance would not necessarily be subject to the same HUD lead hazard control grant requirements.	The Coalition to Prevent Lead Poisoning	3	See comment #142.
	145. The DGEIS incorrectly uses the assumption that all pre-1960 owner occupied units are covered by Alternative 1. The use of this incorrect assumption is the basis for a number of overstated negative effects. A correction of this error makes Alternative 1 look even more advantageous.	The Coalition to Prevent Lead Poisoning Katrina Korfmacher	2	<p>With respect to owner-occupied housing units, §60-104(B)(1) describes target housing as "...all owner-occupied residential units constructed prior to 1960, except that with respect to</p> <ul style="list-style-type: none"> • owner-occupied housing, • or housing designated by a state or federal housing program as having been developed for the elderly or for persons with disabilities, and • "zero bedroom" housing. <p>Such housing is not considered target housing unless a child who is 6 years of age or younger resides in or is expected to reside in such housing, or is likely to play in or around such housing."</p> <p>This change was incorporated into the GEIS where applicable and resulting changes to the overall analysis were integrated.</p>

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	146. On the comparison of alternatives table, page 3-7, the DGEIS <u>correctly</u> shows that owner-occupied housing is exempt unless a child 6 years of age or under resides or is likely to play in the property. However, in the following subsequent sections, the erroneous assumption is used that <u>all</u> pre-1960 owner-occupied units would be included.	The Coalition to Prevent Lead Poisoning Katrina Korfmacher	2	See comment #145.
	147. There are houses within the city which are not going to need \$3500 to make them lead safe. Therefore the overall aggregate cost is going to be far less because there is only a limited number of housing units in which the maintenance was deferred and the properties are lead-unsafe.	Brian Hetherington	1(a)	No response required.
	148. Experience of the local GLO (Get the Lead Out) project, in one of the most highly impacted neighborhoods of Rochester: Cost estimates based on risk assessments of 68 houses during 2004 by an EPA-certified risk assessor averaged \$3,360 per unit, using interim controls and paid labor. These houses were nearly all rental properties in a low-income neighborhood with generally poorly-maintained housing. One would expect lead hazard control in this neighborhood to cost <i>more</i> per unit than in neighborhoods with better housing quality, so the figure of \$3360 per unit should be higher than the citywide average minimum cost.	The Coalition to Prevent Lead Poisoning	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTS	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	149. Alternative 1 wouldn't increase landlord abandonment. There is no recorded documentation that abandonment ever happened anywhere when other cities had these codes in place.	Derrick Hazle	3	<p>Potential abandonment is discussed in Section 5.6.1.2 of the GEIS, and states "... there would be limited abandonment as a result of the implementation of one of the alternatives, with varying degrees of magnitude (Alternative 1 (Introductory #20) would have the largest impact and Alternative 3 (NYS Coalition of Property Owners and Businesses) would have the least impact on property owners)."</p> <p>It cannot be stated with absolute certainty that there would be no increase in abandonment associated with any of the legislation. When an additional expense is placed upon a property owner, there exists a possibility for abandonment depending on the relative size of that expense.</p>
	150. Many units, especially in low risk neighborhoods, may not require any work, or if any very little cosmetic painting and paint stabilization.	Katrina Korfmacher	1(a)	No response required.
	151. Commenter has two boys who were poisoned due to landlord who hired unqualified people to do the lead work. Landlord raised her rent based on the rash of inspections, based on lead paint and my children being sick. Her children both have multiple cognitive and behavioral problems.	Lori Alicie	3	<p>Under all three alternatives, there are requirements with respect to protecting occupants during hazard reduction work.</p> <p>Under Alternative 1 (Introductory #20), these are contained in §60-204 (A).</p> <p>Under Alternative 2 (Introductory #21), these are contained in §90-58 (A).</p>

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
				<p>Under Alternative 3 (NYS Coalition of Property Owners and Businesses), these are contained in §90-59(A)(1).</p> <p>In addition, there requirements on proper worksite preparation and safe work practices that would further protect occupants from potential exposure during lead work.</p> <p>Under Alternative 1 (Introductory #20), these are contained in §60-204(A)(3), §60-204(B), §60-207, §60-208, and §60-209.</p> <p>Under Alternative 2 (Introductory #21), these are contained in §90-58 (A)(3) and §90-58 (B).</p> <p>Under Alternative 3 (NYS Coalition of Property Owners and Businesses), these are contained in §90-59(A) (2) an §90-59(B).</p>
	152. [If the ordinance is not crafted diligently], foreclosures will occur, property values will drop like they did in the 90's.	Jean Longchamps	1(a)	No response required.
	153. There is a new issue, where out of state/out of country people are buying houses. They are paying much more than they were paying in 2002. The prices are going up. How are we going to make this successful for them? It becomes a write-off.	Jean Longchamps	1(a)	No response required.
	154. Property owners may discriminate against families and children based on lead poisoning issues.	Larry Burnette	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	155. The EIS includes unsubstantiated claims about reduced affordable housing, depressed property values and increase in the amount of vacant residential properties, when compared to other communities. Making houses lead-safe will improve property values.	Mel Callan	1(a)	No response required.
	156. Abandonment will not be minimized in target areas.	Mary D' Alessandro	1(a)	No response required.
	157. Alternative 1 applies only to those owner occupants WITH CHILDREN UNDER 6 - you'll see this reduces the DGEIS's estimates of impacted owner occupant housing by around 85%.	Katrina Smith Korfmacher	4	See comment #145.
	158. Has your research given you the number of children with EBL that live in owner occupied housing?	The New York State Coalition of Property Owners & Businesses, Inc.	3	The data for children with EBL is not maintained in a fashion that allows for this type of analysis with any degree of certainty. However, according to statements made by the MCDPH on October 27 th , 2005 at a special meeting of the City Council's Housing and Economic Development Committee, approximately 80% of children identified with EBL are from renter households.
	159. What is that number both in the city and through out Monroe County of children with EBL that live in owner occupied housing?	The New York State Coalition of Property Owners & Businesses, Inc.	3	See comment #158.
	160. Is it reasonable to expect home owners/housing providers to put more money into a property for Lead Hazard Control that the house is worth in value?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	161. Does the City acknowledge that Lead Hazard Control may cost more than the value of the property?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	162. HUD focuses on rental properties and doesn't include owner occupied homes.	Katrina Korfmacher	1(a)	No response required.
	163. If due to the decrease in property values in many parts of the city over the last 15 years, the property has debt in excess of the market value of the property how are the home owners going to sell the property if they cannot afford to make the repairs?	William Beyerbach	1(b)	No response required.
	164. Is it not true that many homes pre-1960 have had many components and surfaces replaced such as doors, windows, drywall and exterior steps and porches in the last 25 years? Since they have been replaced and don't contain lead should they still be replaced?	William Beyerbach	3	The lead hazard work that is necessary on a housing unit will be determined by the initial inspection under all alternatives. If the housing unit does not pass this initial inspection, even though many components of the unit may have been replaced, further work and clearance would be required.
	165. What cost and affect could tenant damages have on property owners that have invested financial resources into a property?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	166. The \$7,500 per unit cost figure for lead hazard remediation is too high, based on local data. Use of this number makes all alternatives look more costly than necessary. In addition, the analysis of the impact of property abandonment (which did, nonetheless, conclude that there would be no significant impact) would look even more positive if lower figure were used. <i>We request that the \$3,500 cost</i>	The Coalition to Prevent Lead Poisoning	3	See comment #140, 141, and 142.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	<p><i>figure be used in place of \$7,500 throughout the report. We also request that the estimated costs be recalculated on the basis of \$3500 average per unit costs on Table 5-3. These estimates, along with a discussion of the points raised below about the basis for each, should be provided in the final DGEIS to give readers a range of possible cost impacts. In addition, when any dollar figure is used for the cost of remediation, it must be added that this is the average cost per unit <u>for those units found to have a lead problem</u>—not for every unit in the City.</i></p>			
	<p>167. In the analysis of the cost of Alternative 1, the cost of remediation is incorrectly applied to all pre-1960 owner occupied properties, instead of only those covered (those with children age 6 and under). This makes Alternative 1 appear more expensive than it should.</p> <p><i>We request that this distinction be clarified in all relevant sections of the document as specified on page 4 below.</i></p>	The Coalition to Prevent Lead Poisoning	4	<p>With respect to owner-occupied housing units, §60-104(B)(1) describes target housing as "...all owner-occupied residential units constructed prior to 1960, except that with respect to</p> <ul style="list-style-type: none"> • owner-occupied housing, • or housing designated by a state or federal housing program as having been developed for the elderly or for persons with disabilities, and • "zero bedroom" housing. <p>Such housing is not considered target housing unless a child who is 6 years of age or younger resides in or is expected to reside in such housing, or is likely to play in or around such housing."</p> <p>This change was incorporated into</p>

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
				the GEIS where applicable and resulting changes to the overall analysis were integrated.
	168. The GEIS reported Alternative 3 to have the least impact on the housing providers. The City would use inspectors already being paid to do the same inspections that they do now except they would have further training on the lead issue. Landlords would ultimately be responsible for the remediation of the property if grants were not available. Research has shown the average remediation to be \$7500. Please provide an analysis of why the landlords would be least impacted by Alternative #3. Would it not be beneficial to our community to spread the cost evenly to all involved as opposed to trying to hold one segment accountable?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Refer to Section 5.6 of the GEIS for a discussion on Housing Impacts.
	169. Ratios of lead hazard control costs to market value provided an indication of neighborhoods most likely to be impacted by the lead ordinance. It was noted that ratios above 20% were deemed significant. Nine areas of Rochester were above the 20% range. Is this not worrisome to the effect this could have on those areas?	The New York State Coalition of Property Owners & Businesses, Inc.	3	<p>The analysis and information presented in the GEIS report in Table 5-3, was presented to determine in what areas the cost of lead hazard work would be a significant percentage of the total market value of a typical home in that area.</p> <p>Potential mitigation measures related to financial support for landlords during the implementation of an ordinance are discussed in Section 5.6.1.2 of the Draft GEIS.</p>

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	170. Has any thought or remedy been given on tenant retaliation to the landlord to not pay rent?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Alternative 1 (Introductory #20) provides for landlord protection in §60-402. Alternative 2 (Introductory #21) provides for landlord protection in §90-62 C. Alternative 3 (NYS Coalition of Property Owners and Businesses) provides for landlord protection in §90-63 G.
	171. Alternative #1 requires a 6 month-renewal of the certificate. Is there any real value to of protection if the tenant is not routinely cleaning their unit?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	172. Tenant damage would cause the unit to be unsafe; won't continual damage by tenants in targeted areas cause further abandonment of those areas?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	173. Threat of mass abandonment of rental properties do not seem to be warranted as the investments will be recouped within 10 years. The improvements to the quality of housing will improve the housing market overall.	Joan Roby-Davidson	1(a)	No response required.
	174. Is it safe to assume that once landlords abandon houses in the targeted area that it will continue like a cancer?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	175. If a property cannot be sold wouldn't it be safe to assume that a negative cash flow would force it to be abandoned?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	176. Focus on abandonment because the costs to comply are too great. Rents are going to. HUD just reduced our allowances. I have to reduce rents in order to get tenants. Taxes are going up. Heating costs are going up. I don't know where this idea we are getting more rent has come from. We are not.	John Simpson	1(a)	No response required.
	177. Alternative #1 relies on enforcement and threat of liability through the judicial process. If funds are not available for landlords will this threat further the abandonment of city property?	The New York State Coalition of Property Owners & Businesses, Inc.	5	Potential mitigation measures related to financial support for landlords during the implementation of an ordinance are discussed in Section 5.6.1.2 of the Draft GEIS.
	178. Again, the GEIS reported the indication of a depressed housing market is the number of foreclosures. A good example of abandonment is foreclosures. Tax and mortgage foreclosure. GEIS reported that tax foreclosures were up 300%, Mortgage foreclosures were over 277%. In the Property Owners and Managers Survey (POMS) conducted in 1995 by the US Census Bureau, it was found that the third most frequent regulation which makes it difficult to operate small rental properties was lead-based paint requirements. Why has GEIS repeatedly stated that abandonment will be minimal?	The New York State Coalition of Property Owners & Businesses, Inc.	3	<p>The description of mortgage and tax foreclosures were presented in order to frame the overall housing market in the City of Rochester. It is generally a depressed market with higher vacancy.</p> <p>It is stated that there will still be limited abandonment, because based upon the calculations and analysis performed, there would be owners and/or investors willing to spend the money necessary to bring housing into compliance with whichever version of the lead-poisoning prevention ordinance is passed.</p> <p>There may be an increase in property transfers, but the GEIS states that there will be minimal abandonment across the City as a whole.</p>

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	179. October 7 th the Tax foreclosure had an additional 400 homes up for sale that the tax foreclosure auction. Of those 400 homes only half were bought. Would this be an indicator of the true potential for abandonment?	The New York State Coalition of Property Owners & Businesses, Inc.	1(b)	No response required.
	180. Which alternative would lead to the most abandonment?	The New York State Coalition of Property Owners & Businesses, Inc.	3	Potential abandonment is discussed in Section 5.6.1.2 of the GEIS, and states "... there would be limited abandonment as a result of the implementation of one of the alternatives, with varying degrees of magnitude (Alternative 1 (Introductory #20) would have the largest impact and Alternative 3 (NYS Coalition of Property Owners and Businesses) would have the least impact on property owners)." As stated, Alternative 1 (Introductory #20) has the highest potential for abandonment, but the level of abandonment that would occur is assumed to be limited.
	181. Would the imposition of fines for property owners that can not afford to make the required improvements lead to more abandonment of houses in the poverty crescent?	William Beyerbach	1(a)	No response required.
	182. Analysis of abandonment potential - owner-occupied properties, page 5-12: <i>"1. Under Alternative 1, all owner-occupied residential units constructed prior to 1960 are subject to regulation, whereas under Alternative 2 and 3 only those which require a Certificate of Occupancy or are the subject of a complaint are subject to regulation."</i> Correcting this error will decrease the	The Coalition to Prevent Lead Poisoning	2	See comment #145.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	reported impact on owner abandonment—although even using the incorrect assumptions, this is not found to be a significant negative impact of Alternative 1.			
	183. Is it not a concern that abandonment may cause more harmful health effects than the current lead problem at hand?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	184. Is it reasonable to expect a property owner to wait 10 years for his property to return to a positive cash flow status?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	185. GEIS mentioned rent increases would pay for lead remediation. In the targeted areas of the city, rents are determined by Social Service grants. Rents have not been increased in years.	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	186. Currently, Social Service has implemented a new procedure that makes it even more difficult for landlords to do business with them. Six months ago DSS implemented that it is no longer required for DSS to send out 989's informing landlords that cases are being closed or tenants are moving. Should we all be working together?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	187. It is also important to note that property owners who wish to save money can take an 8-hour lead safe work practices course and perform all or part of the labor themselves, thereby significantly reducing their costs. Because Rochester's rental housing market is dominated by investors owning one or two units, it is probable that this scenario will be	The Coalition to Prevent Lead Poisoning	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	common. It is notable that the property owners interviewed by Ecology and Environment, Inc (authors of the DGEIS) were not typical of these small-scale (one- to two-unit) landlords. Larger-scale landlords, such as those interviewed, are more likely to use paid professional staff to do repairs.			
	188. With the threat of a ten year wait to resume a property to a positive cash flow would it be fair to assume that maintenance issues and other needs the property may have will be unattended during that 10 year wait?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	189. Can landlords control the crime in these areas?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	190. Can landlords control the actions of the tenants as to the damage they do to the property?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	191. Is it reasonable to expect a landlord to be able to rent to a better clientele in these areas of high crime?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	192. As Landlords abandon their properties in these areas, will the tenants that have a poor history as to arrests and evictions find it difficult to find lead safe housing?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	193. Isn't it true that landlords in the targeted areas have a high rate of non-payment of rent?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	194. Isn't it true that property maintenance is affected by the rent collected?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	195. Do any of the alternatives suggest tenant accountability?	The New York State Coalition of Property Owners & Businesses, Inc.	5	It is assumed that by tenant accountability, the commenter is referring to some negative/disruptive action taken against the property owner by the

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
				tenant, similar to comment #34. Alternative 1 (Introductory #20) provides for landlord protection in §60- 402. Alternative 2 (Introductory #21) provides for landlord protection in §90-62 C. Alternative 3 (NYS Coalition of Property Owners and Businesses) provides for landlord protection in §90-63 G.
	196. Is it not true that without tenant accountability that there will be no such thing as no childhood lead poisoning?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	197. Hasn't all the negative, inflammatory propaganda concerning lead poisoning actually done more harm in our community as far as landlords being afraid to work on their properties for fear of litigation?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	198. Hasn't the negativism of agencies pointing fingers on housing providers actually done more harm than good?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
§5.7 Impact Analysis, Human Health	199.Fails to mention whether it will meet the goal of lead safe by 2010.	Brian Hetherington	3	A statement has been added to Section 5.7.6 of the GEIS regarding each of the proposed alternatives ability to reach the goal of being lead free by 2010.
	200. Lead and the resulting impacts to children, special education, academic achievement, dropout rate, criminal activity. How many of these individuals have been lead poisoned is unknown but we know the costs of dealing with them. The cost to society far exceeds the cost of removing lead	Walter Cooper	1(a)	No response required.

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	in residences. Alternative 1 is the best fit for total removal.			
	201. The current targeted areas of the city are those areas that are assumed to be in need of the most repairs. Do the targeted areas also have a social behavior that can not be controlled by the landlord?	The New York State Coalition of Property Owners & Businesses, Inc.	1(a)	No response required.
	<p>202. The health-protective effects of Alternative 1 are underestimated because:</p> <ul style="list-style-type: none"> - The DGEIS failed to take into account the health-protective effect of targeting the application of the ordinance first to those neighborhoods with the highest rates of lead-poisoned children. - The DGEIS failed to note that this is the only alternative that would require periodic reinspection (in less than 5 years) of properties that are remediated using interim controls. <p><i>We request that these two factors be added to the text in Sections 5.7.1, 5.7.3 and 5.7.6.</i></p>	The Coalition to Prevent Lead Poisoning	2	<p>Text has been added to Section 5.7 expanding on the potential environmental benefits from the targeting provisions in Alternative 1 (Introductory #20).</p> <p>Text has been added to Section 5.7 to reflect this change.</p>

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
	<p>203. In Section 5.7.1 Affected Properties, page 5-21, the DGEIS incorrectly states that Alternative 1 “defines target housing as all residential rental housing in the City of Rochester constructed prior to 1978, and all owner-occupied residential units constructed prior to 1960.</p> <p>(Note: Since no total cost estimates were given, this error does not appear to affect any of the economic modeling contained in the DGEIS.)</p>	The Coalition to Prevent Lead Poisoning	2	See comment #145.
§5.8 Impact Analysis, Historic Resources	204. Any proposed regulations should consider the importance of the City’s heritage to its identity and future. Regulations that inadvertently cause abandonment of large numbers of buildings or that inhibit rehabilitation will create other problems like unsafe conditions in vacant buildings.	Landmark Society	3	<p>This issue is addressed in Section 5.8 of the GEIS. The heritage of the City of Rochester is evident through its diverse housing stock. The City of Rochester recognizes the importance of preserving sensitive historic resources. Any potential impact to historic resources will be evaluated by the City. Those designated resources requiring further evaluation by the New York State Office of Parks, Recreation, and Historic Preservation under either the State or Federal preservation acts will be assessed prior to commencement of any lead-hazard reduction work.</p> <p>Appropriate text has been added to Section 5.8.</p>
	205. The use of State or Federal funding obligates the City to coordinate its efforts with the State Office of Parks, Recreation, and Historic Preservation under the Section 106 process.	Landmark Society	3	<p>This issue is addressed in Section 5.8 of the GEIS. The heritage of the City of Rochester is evident through its diverse housing stock. The City of Rochester recognizes the importance of preserving</p>

GEIS SECTION	COMMENT	COMMENTER	R.E.C. DISPOSITION RECOMMENDATION	RESPONSE
				<p>sensitive historic resources. Any potential impact to historic resources will be evaluated by the City. Those designated resources requiring further evaluation by the New York State Office of Parks, Recreation, and Historic Preservation under either the State or Federal preservation acts will be assessed prior to commencement of any lead-hazard reduction work.</p> <p>Appropriate text has been added to Section 5.8.</p>

F

Alternative Lead Poisoning Prevention Ordinances Proposed

Alternative 1

Proposed Chapter 60: Lead Poisoning Prevention Code Introduced by Councilman Mains (Introduction #20 of 2005)

CHARTER AND CODE OF THE CITY OF ROCHESTER, NEW YORK

Chapter 60 LEAD POISONING PREVENTION CODE

Article 1: General Requirements: Certificates of Lead Paint Review; Lead-Safe Housing Standards

- § 60-101. Title.
- § 60-102. Findings.
- § 60-103. Definitions.
- § 60-104. Covered Housing; Requirement to Obtain and File a "Certificate of Lead Poisoning Prevention Code Compliance"
- § 60-105. When a Certificate Must Be Obtained and Filed; Substitution of Report of Certified Lead Inspection, Hazard Risk Assessment.
- § 60-106. Standards for Issuance of Certificate.
- § 60-107. Reviews of Denials of Certificates.
- § 60-108. Inspection by Department; Enforcement.
- § 60-109. City Review for Compliance with Other Laws.
- § 60-110. Emergency Actions, Weather Complications, Case-by-Case Waivers.
- § 60-111. Failure to Comply with "Certificate of Lead Poisoning Prevention Code Compliance" Filing Requirement
- § 60-112. Records.

Article 2: Notification, Lead Safe Work Practices, and Ongoing Maintenance Requirements.

- § 60-201. Definitions.
- § 60-202. Applicability.
- § 60-203. Notification requirements.
- § 60-204. Occupant protection and worksite preparation
- § 60-205. Safe work practices
- § 60-206. Ongoing lead-based paint maintenance and reevaluation activities.
- § 60-207. Non-compliance.
- § 60-208. Enforcement.
- § 60-209. Penalties and procedures for violations.

Article 3: Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property.

- § 60-301. Findings
- § 60-302. Purpose and Goal
- § 60-303. Definitions
- § 60-304. Education and Outreach
- § 60-305. Disclosure Obligations Prior to the Transfer of Real Property
- § 60-306. Disclosure Obligations Upon Receiving Notice of Lead Paint in a Rental Unit
- § 60-307. Obligations of Child Care Providers
- § 60-308. Database of Properties that are Lead-Based Paint Free
- § 60-309. Enforcement; Private Right of Action.

Article 4: Protections for Occupants; Right to Vacate Premises; Private Right of Enforcement; Housing Registry

§ 60- 401. Purpose.

§ 60- 402. Prohibition of Retaliatory Action.

§ 60- 403. Notification to County of Lead Hazardous Conditions.

§ 60- 404. Designation of Uncorrected Lead Hazardous Conditions as Rent Impairing Violations; Notice to Owner and Tenants.

§ 60- 405. Notice to Tenants of Right to Have Premises Free of Conditions That Are Detrimental to Health and Safety.

§ 60- 406. Documentation of Conditions.

§ 60- 407. Right to Vacate.

§ 60- 408. Private Right of Enforcement of Lead Poisoning Prevention Code.

§ 60- 409. Database of Lead Safe Properties.

Article 5: Enforcement.

ARTICLE 1

General Requirements:

Certificate of Lead Poisoning Prevention Code Compliance;

Lead-Safe Housing Standards

Contents:

§ 60-101. Title.

§ 60-102. Findings, purpose and structure.

§ 60-103. Definitions.

§ 60-104. Covered Housing; Requirement to Obtain and File a "Certificate of Lead Poisoning Prevention Code Compliance"

§ 60-105. When a Certificate Must Be Obtained and Filed; Substitutes for Filing of Certificates; Duration of Certificate.

§ 60-106. Standards for Issuance of Certificate.

§ 60-107. Reviews of Denials of Certificates.

§ 60-108. Inspection by Department; Enforcement.

§ 60-109. City Review for Compliance with Other Laws.

§ 60-110. Emergency Actions, Weather Complications, Case-by-Case Waivers.

§ 60-111. Failure to Comply with Certificate Filing Requirement

§ 60-112. Records.

§ 60- 101. Title.

Chapter 60 of the Code of the City of Rochester shall be known as the "Lead Poisoning Prevention Code of the City of Rochester, New York" (LPPC).

§ 60- 102. Findings, purpose and structure.

A. The Council finds as follows:

(1) Lead poisoning poses a serious health threat to adults and children in the City of Rochester.

(2) Children are particularly susceptible to the hazards of lead-based paint since their bodies are still developing and since they are more likely to ingest lead-contaminated dust through hand-to-mouth contact. Fetuses are also vulnerable to the effects of lead paint because pregnant women can transfer lead to their fetuses, which can result in adverse developmental effects.

(3) Low levels of lead in a fetus or young child can lead to reduced intelligence and attention span, learning disabilities, hearing impairment, and behavior problems.

(4) Children living in older poorly maintained homes are disproportionately at risk for lead-based paint hazards.

(5) Childhood lead poisoning causes enormous societal costs, including medical costs and special education costs.

(6) A minute amount of lead can cause elevated blood lead levels resulting in serious and irreversible developmental damage, particularly in children age six years of age and younger.¹

(7) Lead hazards, including paint, soil and dust hazards both from deteriorated lead-based painted and from lead-based paint on friction, impact and chewable surfaces, as well as from soil, are the primary cause elevated blood lead levels and irreversible developmental damage in children.

(8) Properties built before 1978 are the most likely to contain lead-based paint hazards.

(9) Residential properties, both rental and homeowner, are more likely than are non-residential properties to be a cause of elevated lead blood levels in young children.

(10) The existence of lead-based paint hazards in the City of Rochester is most common, and presents the most serious risk, for young children in rental housing built before 1978. Lead-based paint poses health hazards to adults as well as children.

(11) Lead-based paint poses health hazards to adults as well as children.

(12) It is in the public interest for all persons to know whether lead-based paint hazards in a property have been controlled so that occupants can make informed housing decisions about the health hazards to which they, their families and guests may be exposed.

(13) It is essential to the overall public safety of persons in the City of Rochester, and particularly for children six years of age and younger, that they be protected from lead-based paint hazards including lead-based paint that is deteriorated, or present in chewable surfaces, friction surfaces, or impact surfaces, and that they be protected from other exposures to lead in the environment, such as soil, that can result in adverse human health effects.

B. Purpose and structure.

(1) This Article establishes a requirement that certain housing, identified as "target housing" will subject to examination for lead-based paint hazards and will be required to obtain a "Certificate of Lead Paint Poisoning Prevention Code Compliance" upon a determination by EPA certified lead assessors, inspectors, or technicians that the housing has made this code's requirements for demonstrating that no lead-based paint hazards are present.

(2) The requirement to obtain an examination will be triggered by notices sent by the City to owners of the housing identified as the most likely to contain lead hazards, including housing determined in a regular Property Code inspection under Chapter 90 to have damaged or deteriorated paint in buildings constructed prior to 1978. The City will send notices in a systemic code enforcement model, with notices first to be sent to target housing located in the census tracts which have been identified in the Center for Governmental Research's 2002 report "Lead Poisoning Among Young Children in Monroe County," as those with the highest risk of containing lead-based paint hazards.

(3) The examination standards to be used to determine whether lead-based paint hazards are present are those used for "clearance testing" as established in federal regulations at 24 CFR Part 35, Subpart R, as modified by this Code, in addition to an initial visual assessment. Dust

wipe samples shall be taken of bare soil and of porches in order to determine the presence, regardless of source, of lead-based paint hazards.

(4) Once a lead-based paint hazard has been identified, that condition is to be remedied in accordance with lead-safe work practice and notification requirements set out in Article 2.

§ 60- 103. Definitions.

The following terms used in this Chapter or in materials referenced by this Chapter are defined in Appendix 1:

Abatement; Bare soil; Certified; Certified Lead Inspector; Certified Lead Assessor; Chewable surface; Clearance examination; Common Area; Component; Composite sample; Deteriorated paint; Department; Dry sanding; Dust-lead hazard; Dwelling unit; Encapsulation; Enclosure; Environmental intervention blood lead level; Evaluation; Expected to reside; Friction surface; g, mg and *g; Hazard reduction; HEPA vacuum; Impact surface; Inspection; Interim controls; Interior window sill; Lead-based paint; Lead-based paint hazard; Lead-based paint inspection; Lead hazard screen; Mortgagee; Mortgagor; Multifamily property; Occupant; Owner; Paint; Paint testing; Paint removal; Painted surface; Permanent.; Play area; LPPC; Reevaluation; Rehabilitation; Replacement; Residential property; Risk assessment; Single-family property; Single room occupancy (SRO); Soil-lead hazard; Standard treatments; Substrate; Target housing; Tenant; Unit; Unit turnover; Visual assessment; Wet sanding or wet scraping; Window trough; Worksite; Zero-bedroom dwelling.

§ 60- 104. Covered Housing; Requirement to Obtain and File a "Certificate of Lead Poisoning Prevention Code Compliance"

A. Requirement to Obtain and File Certificate.

Subject to the implementation priorities established by the City and other triggering circumstances described in § 60-105, all owners of target housing as described in Paragraph B will, by September 1, 2005 be required to file with the Department a "Certificate of Lead Poisoning Prevention Code Compliance" as described in paragraph C.

B. Target Housing.

(1) Included housing.

Except as provided in paragraph (2), for the purposes of this Chapter, target housing includes all residential rental housing in the City of Rochester constructed prior to 1978, and all owner-occupied residential units constructed prior to 1960, except that with respect to

- * owner-occupied housing,
- * or housing designated by a state or federal housing program as having been developed for the elderly or for persons with disabilities, and
- * "zero bedroom" housing,

such housing is not considered target housing unless a child who is 6 years of age or younger resides in or is expected to reside in such housing, or is likely to play in or around such housing. "Zero bedroom" housing is an efficiency or studio apartment, or any other unit in which the living area is not separated from the sleeping area.

Target housing includes mixed-use (residential and non-residential) properties, provided however, that with respect to the non-residential portions of such properties, the standards described in § 60-106 apply only to spaces such as entryways, hallways, corridors, passageways, stairways, or other common areas that serve the residential portions of those properties.

(2) Non-included housing.

Target housing does not include

- * dormitory housing, institutional housing, other group quarters, or
- * the rental of individual rooms in residential dwellings,
- * unoccupied residential property that is to be demolished, provided that the property is to remain unoccupied until such demolition, and provided further that if the property has remained unoccupied for more than 120 days an owner or occupant of an adjacent property or any neighborhood organization may request the Department to require the filing of a "Certificate of Lead Poisoning Prevention Code Compliance" with respect to the exterior portions of such property. In such a case the Department shall require the filing of the Certificate unless the demolition is scheduled to be completed pursuant to the terms of a fully executed contract to perform such demolition within 60 days of the request to the Department.

C. Content and Scope of a "Certificate of Lead Poisoning Prevention Code Compliance."

(1) "Certificate of Lead Poisoning Prevention Code Compliance." [§35.1340]

A "Certificate of Lead Poisoning Prevention Code Compliance" is a certification on a form prescribed and made available by the Department, executed by a certified lead inspector, or lead-based paint risk assessor confirming that an examination of the property has been made and that as of the date of the certification the examiner found the property to be in compliance with the standards described in § 60 -106. In order to minimize the costs of obtaining Certificates, the City encourages the training and EPA certification of "lead-sampling technicians" to perform the functions authorized for such technicians under applicable requirements and regulations.

A "technician" for the purposes of this Code, is a person who has successfully completed a training course for sampling technicians (or a discipline of similar purpose and title) that is developed or accepted by EPA or a State authorized by EPA pursuant to 40 CFR part 745, subpart Q, and that is given by a training provider accredited by EPA or a State for training in lead-based paint inspection or risk assessment, provided a certified risk assessor or a certified lead-based paint inspector approves the work of the sampling technician and signs the report of the clearance examination. A technician may not perform clearance examinations after abatement activities.

The term technician shall also include a person licensed or certified by EPA or a State to perform clearance examinations without the approval of a certified risk assessor or certified lead-based paint inspector, provided that a clearance examination by such a licensed or certified technician shall be performed only for a single-family property or individual dwelling units and associated common areas in a multi-unit property, and provided further that a clearance examination by a

such a licensed or certified sampling technician shall not be performed using random sampling of dwelling units or common areas in multifamily properties, except that a clearance examination performed by such a licensed or certified sampling technician is acceptable for any residential property if the clearance examination is approved and the report signed by a certified risk assessor or a certified lead-based paint inspector.

(2) Limitations and Content of Certification.

The "Certificate of Lead Poisoning Prevention Code Compliance" shall specifically provide that the review was conducted in accordance with the requirements of the Rochester Lead Poisoning Prevention Code, for the purpose of decreasing the risk of exposure to lead hazards. The Certificate shall state that the issuance of the Certificate does not assure that the property will remain free of lead hazards after the date of the issuance of the Certificate. The Certificate shall additionally include the statement that in order to provide maximum protection from lead hazards it is essential that property be maintained so that paint is kept in a non-deteriorated condition, and that friction, impact and chewable surfaces that contain lead-based paint be regularly washed and treated as described in the EPA pamphlet "Protect Your Family From Lead in Your Home" and a copy of that material shall be provided with the Certificate.

(3) Non-interference With Other Laws.

The "Certificate of Lead Poisoning Prevention Code Compliance" shall additionally state that it has been issued solely for the purpose of compliance with the filing requirements of the Rochester Lead Poisoning Prevention Code, and that the property remains subject to any additional requirements regarding property maintenance, lead poisoning prevention and disclosure of known or possible hazards that are imposed by any other local, state, or federal laws.

(4) Identification of Property Covered by Certificate.

A "Certificate of Lead Poisoning Prevention Code Compliance" may be issued for an entire building or for an individual housing unit within a building, provided however, that the Certificate shall clearly identify the unit or units inspected and to which the Certificate is applicable and shall cover all units for which a Certificate of Occupancy has been issued pursuant to Chapters 39 and 90 of this Code. The review for lead hazards shall include an examination of all common areas accessible to the covered unit(s) and the Certificate shall describe the common areas examined.

(5) Requirement to Post Notice.

The Department shall make available a notice to occupants of all properties subject to the Certificate requirement advising them of the hazards of lead paint exposure and describing the requirements of the Lead Poisoning Prevention Code. The owner (or other responsible party) shall post the notice in a location readily visible to unit occupants (such as the inside of a closet door, provided the notice will not be obscured). The notice shall be securely affixed in a manner that will reduce the likelihood that it will be removed or damaged. The notice shall specifically advise occupants of the procedures, including a phone number for assistance, to request the Department to require a further inspection for lead hazards.

§ 60-105. When a Certificate Must Be Obtained and Filed; Substitutes for Filing of Certificates; Duration of Certificate.

A. Except as provided for in paragraph B below, owners (including purchasers) of target housing are required to file with the Department the "Certificate of Lead Poisoning Prevention Code Compliance" described in § 60-104 upon the occurrence of any one of the following:

1. The Department has sent the owner or responsible party a "Notice to File a Certificate of Lead-Poisoning Prevention Code Compliance." Such notices shall advise the owner or responsible party that the Certificate must be filed within 120 days of the date of the issuance of the Notice. The Notice shall provide the recipient with information describing how to obtain a current list of qualified EPA certified lead paint inspectors or risk assessors who are registered with the Department as qualified to issue the Certificate;
2. Upon citation of the property for peeling or deteriorated paint under the Property Code of the City of Rochester (Chapter 90 of this Code), or of the Property Maintenance Code for New York State, or of the New York State Public Health Law, or other applicable law. In such cases, the Certificate shall be obtained within 60 day of the notice of violation unless a shorter time period is deemed appropriate based upon the severity of the hazard; or
3. Upon transfer of a single-family house to an owner-occupant when the purchasing household includes a child six years of age or younger and the property had previously been subject to a Certificate requirement, but the prior owner had exercised the option to file a Homeowner Statement in lieu of a Certificate pursuant to Paragraph B below. When housing is subject to a Certificate requirement by virtue of such a transfer, it shall be the obligation of the purchaser, not the seller, to obtain the Certificate, and such Certificate shall be obtained within 120 days of the date of closing.
4. Upon transfer of a single-family house where the unit is to be occupied as rental property and the property had previously been subject to a Certificate requirement, but the prior owner had exercised the option to file a Homeowner Statement in lieu of a Certificate pursuant to Paragraph B below. . When housing is subject to a Certificate requirement by virtue of such a transfer, it shall be the obligation of the purchaser, not the seller, to obtain the Certificate, and such Certificate shall be obtained within 120 days of the date of closing.

(5) Upon the expiration of a Certificate as provided in Paragraph D below.

B. In lieu of the filing of a "Certificate of Lead Poisoning Prevention Code Compliance," an owner or responsible party may file with the Department:

- (1) A certification by lead paint inspector or risk assessor that the property has been determined in a lead-based paint inspection conducted in accordance with the federal regulations at 24 CFR §35.1320(a) not to contain lead based paint provided however that the property has been inspected pursuant to those requirements within the last 12 months. In such case, the results of additional test(s) by a certified lead-based paint inspector or risk assessor may be used to confirm or refute a prior finding. [§35.115]
- (2) A certification by a lead paint inspector or risk assessor that all lead-based paint in the property has been identified, removed, and clearance has been achieved in accordance with federal regulations found at 24 CFR §§35.1320, 35.1325 and 35.1340, provided however that the property has been inspected pursuant to those requirements within the last 12 months. This exemption does not apply to residential property where enclosure or encapsulation has been used as a method of hazard control. [§35.115]
- (3) A certification by the Rochester Housing Authority or other state or federal supervising agency which regulates an assisted housing program stating that the property is in compliance with the inspection and clearance requirements of the state program or, with respect to federally

assisted housing, the requirements of 24 CFR Part 35, provided however that with respect to the federal Housing Choice Voucher program the property has been inspected pursuant to those requirements within the last 12 months.

(4) With respect to single-family, owner-occupied units homeowners may, in lieu of the Certificate, file a notarized statement, sworn under penalty of perjury, that no child age six or under resides in or spends substantial time at the dwelling.

C. Duration of Certificate.

The duration of a "Certificate of Lead Poisoning Prevention Code Compliance" is as follows:

1. When a unit has been determined to contain no lead-paint hazards, the duration of the Certificate shall be one year. Prior to the expiration of that time, a new Certificate shall be obtained, and thereafter Certificates at the property shall have a duration of three years. If in the course of any further examinations the unit is determined to contain lead-hazards, the Certificate duration shall then be shortened as provided in sub-paragraph 2 below.

(2) When a unit is found to contain lead-paint hazards, a plan for controlling the hazards using lead-safe work practices shall be prepared and controls put in place within sixty (60) days. If the unit fails a clearance examination a new plan requiring hazard controls shall be implemented within thirty (30) days. Once the dwelling passes a clearance inspection, a Certificate with a six-month duration shall be issued. Thereafter new Certificates shall be renewed at six month intervals until such time as the unit passes clearance without the need for new controls. At that point the unit will be issued first a one-year Certificate and then three-year Certificates as provided for in paragraph 1.

C. Duration of Certificate [ALTERNATE PROVISION]

The duration of a "Certificate of Lead Poisoning Prevention Code Compliance" is as follows:

(1) Properties passing clearance standards.

When a unit has been determined to contain no lead-paint hazards, the duration of the Certificate shall be one year. Prior to the expiration of that time, a new Certificate shall be obtained, and thereafter Certificates at the property shall have a duration of three years. If in the course of any further examinations the unit is determined to contain lead-hazards, the Certificate duration shall then be shortened as provided in sub-paragraph 2 below.

(2) Properties failing to pass clearance standards; reevaluation requirements.

When a unit is found to contain lead-paint hazards, a plan for controlling the hazards using lead-safe work practices shall be prepared and controls put in place within sixty (60) days. Once the unit has passed the clearance examination, a Certificate shall be issued subject to the requirement that a reevaluation shall be conducted no later than two years from completion of lead hazard reduction. Subsequent reevaluation shall be conducted at intervals of two years, plus or minus 60 days. To be exempt from additional reevaluation, at least two consecutive

reevaluations conducted at such two year intervals must be conducted without finding lead based paint hazards or a failure of an encapsulant or enclosure. If however, a reevaluation finds lead based paint hazards or a failure, at least two more consecutive reevaluations conducted at such two year intervals must be conducted without finding lead-based paint hazards or a failure.

D. Prioritization for Issuance of Notices.

In implementing this section, the Department shall send its Notices prioritized by the risk categories identified in the 2002 Center for Governmental Research report, "Lead Poisoning Among Young Children in Monroe County," and using the CGR methodology, shall identify the order and timing for the sending of the notices, with the highest priority being given to the census tracts and types of housing identified as the housing most likely to pose risks of lead-poisoning hazards. The Department shall issue the Notices in a manner and at a rate calculated substantially to comply with the City's goal to eliminate childhood lead poisoning by the year 2010. The Department shall direct its highest monitoring and enforcement initiatives at properties which have been identified in public health records as having housed more than one child with an elevated blood lead level of higher than 10 µg/dcl.

§ 60-106. Standards for Issuance of Certificate. [Mostly from 24 CFR §35.1340, "Clearance"].

In order to be eligible for issuance of a "Certificate of Lead Poisoning Prevention Code Compliance", the following standards and procedures must be complied with:

A. Qualified personnel. A certification of compliance with the standards for issuance of a "Certificate of Lead Poisoning Prevention Code Compliance" shall be performed by:

1. A certified risk assessor;
2. A certified lead-based paint inspector;
3. A person who has successfully completed a training course for sampling technicians (or "sampling technicians," or other description of a discipline with a similar purpose and title) that is developed or accepted by EPA and that is given by a training provider accredited by the EPA for training in lead-based paint inspection or risk assessment, provided a certified lead-based paint inspector approves the work of the sampling technician and signs the report of the clearance examination.

B. Examination requirements.

(1) Examinations shall include a visual assessment, dust sampling, submission of samples for analysis for lead, interpretation of sampling results, and preparation of a report. Examinations shall be performed in dwelling units, common areas and exterior areas in accordance with this section and the steps set forth at 40 CFR 745.227(e)(8). If examinations are being performed for more than ten dwelling units of similar construction and maintenance, as in a multifamily property, random sampling for the purposes of examinations may be conducted in accordance with the provisions established for clearance examinations in 40 CFR 745.227(e)(9).

(2) A visual assessment shall be performed to determine if deteriorated paint surfaces and/or visible amounts of dust, debris, paint chips or other residue are present. Both exterior and interior

painted surfaces shall be examined for the presence of deteriorated paint. If deteriorated paint or visible dust, debris or residue are present in areas subject to dust sampling, they must be eliminated prior to the continuation of the clearance examination, except elimination of deteriorated paint is not required if it has been determined, through paint testing or a lead-based paint inspection, that the deteriorated paint is not lead-based paint. If exterior painted surfaces have been disturbed by hazard reduction, maintenance or rehabilitation activity, the visual assessment shall include an assessment of the ground and any outdoor living areas close to the affected exterior painted surfaces. Visible dust or debris in living areas shall be cleaned up and visible paint chips on the ground shall be removed.

(3) Dust samples shall be wipe samples and shall be taken on floors, including porches, and, where practicable, interior windowsills and window troughs, **and bare soil**. Dust samples shall be collected and analyzed in accordance with 24 CFR § 35.1315.

C. Report.

The Certificate examiner shall ensure that an examination report is prepared that provides documentation of the examination, as well as any hazard reduction or maintenance activity that has taken place. When abatement is performed, the report shall be an abatement report in accordance with 40 CFR 745.227(e)(10). Otherwise, the report shall include the following information:

(1) The address of the residential property and, if only part of a multifamily property is affected, the specific dwelling units and common areas affected.

(2) The following information:

(a) The date(s) of the examination;

(b) The name, address, and signature of each person performing the examination, including certification number;

(c) The results of the visual assessment for the presence of deteriorated paint and visible dust, debris, residue or paint chips;

(d) The results of the analysis of dust samples, in µg/sq.ft, **including soil samples**, by location of sample; and

(e) The name and address of each laboratory that conducted the analysis of the dust samples, including the identification number for each such laboratory recognized by EPA under section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b)).

(3) If hazard reduction or maintenance activity has taken place:

(a) The start and completion dates of the hazard reduction or maintenance activity;

(b) The name and address of each firm or organization conducting the hazard reduction or maintenance activity and the name of each supervisor assigned;

(c) A detailed written description of the hazard reduction or maintenance activity, including the methods used, locations of exterior surfaces, interior rooms, common areas, and/or components where the hazard reduction activity occurred, and any suggested monitoring of encapsulants or enclosures; and

(d) If soil hazards were reduced, a detailed description of the location(s) of the hazard reduction activity and the method(s) used.

D. Clearance Standards.

Where a lead hazard had been identified, the clearance standards in 24 CFR §35.1320(b) (2), including soil-lead hazard standards, shall be met before a "Certificate of Lead Poisoning Prevention Code Compliance" may be issued and filed. With respect to porches, the standard required for clearance shall be 400 µg/sq. ft, provided however, that if a porch is found to contain more than 40 µg/sq. ft. the inspector, assessor or technician shall advise the occupants of the unit that the porch constitute a potential lead-paint hazard that requires continued caution and that the occupants should read and follow closely the information in the EPA brochure regarding lead safe maintenance practices such a frequent washing, and that brochure shall be provided to the occupants with the relevant passages highlighted.

E. Clearance failure.

All surfaces represented by a failed clearance samples shall be re-cleaned or treated by hazard reduction, and retested, until the applicable clearance level set in 24 CFR §35.1320(b)(2) and this Code are met.

F. Requirement to Avoid Conflict of Interest Regarding Clearance Inspection.

All examinations shall be performed by persons or entities independent of those persons performing hazard reduction or maintenance activities. No examinations shall be performed by the owner or an employee of the owner.

§ 60- 107. Reviews of Denials of Certificates.

Whenever a "Certificate of Lead Poisoning Prevention Code Compliance" has been denied, the owner or other responsible party may request the Department to conduct an inspection of the property to establish that the property complies with the requirements of § 60-106. In the event the Department confirms that the property does not comply with those standards the Department shall send a written notice to the owner specifying that it has determined that a "Certificate of Lead Poisoning Prevention Code Compliance" has properly been denied and stating the action that must be taken prior to authorization for issuance of the Certificate. The Department's action with respect to this determination shall be reviewable in an Article 78 proceeding pursuant to the Civil Practice Law and Rules (CPLR) for the State of New York

§ 60-108. Inspection by Department; Enforcement.

A. The Department itself shall conduct or cause to be conducted an inspection for lead paint hazards utilizing the standards described in § 60-106 upon the request of any lawful occupant of a building other than the owner of rental property, or with respect to potential exterior hazards, by an adjoining property owner or occupant or any other person who may be affected by an exterior lead hazard. In addition, the Department upon its own initiative, or as part of a program for systematic code enforcement, or upon sufficient cause having been shown to believe that a lead hazard exists, may conduct or authorize a lead-hazard inspection by an EPA certified lead inspector or certified lead assessor. If the owner of the property does not voluntarily consent to an inspection and a current occupant of the property does not authorize the inspection, a warrant shall be obtained.

"Sufficient cause" for the purposes of this section shall include, but not be limited to, information obtained from any certified lead hazard inspector or assessor, any professional housing contractor, or any social services worker or health care professional offering credible information that a potential lead paint hazard exists. The Department shall provide forms for such persons to submit to the City their basis for belief that a lead hazard is present.

B. The City shall defend any City employee who is sued for negligence, error, omission, misfeasance, malfeasance or nonfeasance arising out of the employee's duties in enforcing this code. The City shall indemnify such employee in the event any judgment is recovered against such employee arising out of the employee's duties in enforcing this code, unless the employee's conduct is determined to be willfully or grossly negligent.

§ 60-109. City Review for Compliance with Other Laws. [§35.150]

If the City determines that a state or federal law, ordinance, code or regulation provides for evaluation or hazard reduction in a manner that provides a comparable level of protection from the hazards of lead-based paint poisoning to that provided by the requirements of the LPPC, and that adherence to the requirements of the LPPC, would be duplicative or otherwise cause inefficiencies, the City may by general written waiver signed by the Commissioner or her / his designee, modify or waive some or all of the requirements of the LPPC in a manner that will promote efficiency while ensuring a comparable level of protection.

§ 60-110. Emergency Actions, Weather Complications, Case-by-Case Waivers. [§35.115 and 35.160]

A. For emergency actions necessary to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage (such as when a property has been damaged by a natural disaster, fire, or structural collapse), occupants shall be protected from exposure to lead in dust and debris generated by such emergency actions to the extent practicable. This exemption applies only to repairs necessary to respond to the emergency. The requirements of this Chapter apply to any work undertaken subsequent to, or above and beyond, such emergency actions.

B. Performance of an evaluation or lead-based paint hazard reduction or lead-based paint abatement on an exterior painted surface as required under this Chapter may be delayed for a reasonable time during a period when weather conditions render impossible the completion of conventional construction activities, provided however, that this limitation shall continue only for the period in which work cannot be performed in the work safe manner as provided for herein.

C. On a case-by-case basis the Department, subject to limitations on its legal authority to do so, may waive any provision of the LPPC. Any such waiver must be in writing on a form prepared by the Department and signed by the Commissioner or her / his designee.

§ 60- 111. Failure to Comply with "Certificate of Lead Poisoning Prevention Code Compliance" Filing Requirement

No owner subject to the filing requirements of § 60-105 shall lease a vacant rental unit for occupancy unless he or she has filed with the Department the required "Certificate of Lead Poisoning Prevention Code Compliance". A violation of this provision shall be enforceable as provided for in Articles 4 and 5 of this Chapter.

§ 60- 112. Records. [§35.175]

The responsible party, as specified in the LPPC, shall keep a copy of each notice, evaluation, and clearance or abatement report prepared pursuant to or in connection with the requirements of this Chapter shall be kept for three years, and any records applicable to a portion of a residential property for which ongoing lead-based paint maintenance and/or reevaluation activities are required shall be kept and made available for review by the City or public until at least three years after such activities are no longer required.

Article 2:

Notification, Lead-Safe Work Practices, and Ongoing Maintenance Requirements.

Contents:

§ 60-201. Definitions.

§ 60-202. Applicability.

§ 60-203. Notification requirements.

§ 60-204. Occupant protection and worksite preparation

§ 60-205. Safe work practices

§ 60-206. Ongoing lead-based paint maintenance and reevaluation activities.

§ 60-207. Non-compliance.

§ 60-208. Enforcement of Lead Safe Work Practice Requirements.

§ 60-209. Penalties and procedures for violations.

§ 60-201. Definitions. [New Orleans Sec. 82-311]

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accredited laboratory means a laboratory that operates within the EPA National Lead Laboratory Accreditation Program.

Adjacent properties means properties that adjoin the regulated area of the property in question, including at the corners of lot lines.

Certified means that the State of New York has identified an individual as having completed training and other requirements to permit the safe execution of lead risk assessments and inspections, or lead hazard reduction and control work.

Chemical removal of paint shall mean the removal of paint by paint strippers containing a hazardous substance designated by the Consumer Product Safety Commission (CPSC), the Occupational Safety and Health Administration (OSHA), or the U.S. Environmental Protection Agency (EPA) in any way that is not in compliance with the most current CPSC, OSHA, or EPA guidelines, set forth in 16 C.F.R. § 1303.1, 29 C.F.R. § 1926.62, and 40 C.F.R. § 261.3, § 261.32, and 40 C.F.R. § 745.223, respectively.

Containment barriers means measures that prevent the migration of lead paint contaminants. Containment barriers shall be at least as effective at protecting human health and the environment as those contained in the most recent HUD Guidelines, as defined below.

Contractor means any person who undertakes, or offers to undertake or purports to have the capacity to undertake to or submits a bid to take, or does by himself or herself or by or through others take, any action that may or will disturb or remove paint. For purpose of this article, "contractor" shall also include subcontractors.

Director means, for purposes of this article, the Director of the NET office.

Disturb or remove paint means any action that creates friction, pressure, heat or a chemical reaction upon any lead-based paint on an exterior surface so as to abrade, loosen, penetrate, cut through or eliminate paint from that surface. This term shall include all surface preparation activities that are performed upon a surface containing lead-based paint.

Excessive airborne lead concentrations shall be defined according to regulations promulgated by the United States Occupational Safety and Health Administration. "Excessive airborne lead concentrations," for the purposes of this article, shall be those defined by the Occupational Safety and Health Administration at 29 C.F.R. 1926.62 which are currently defined as lead concentrations exceeding the permissible exposure limit (PEL) of 50 mcg/m³ as a time-weighted average over eight hours. Airborne lead concentrations exceeding the action level of 30 mcg/m³ as a time-weighted average trigger additional personal protective equipment and practices.

Excessive lead-containing dust is lead in surface dust including but not limited to dust on interior window sills, window troughs, floors, and soil as defined according to regulations promulgated by the United States Environmental Protection Agency at 40 C.F.R. § 745.227. These standards are currently defined as 250 micrograms per square foot ($\mu\text{g}/\text{sq.ft}$) for interior window sills, 400 $\mu\text{g}/\text{sq.ft}$ for window troughs, 40 $\mu\text{g}/\text{sq.ft}$ for floors, 400 parts per million for bare soil in play areas, and 1200 parts per million for soil in non-play areas of a yard. In addition, Article 1 of this Code establishes a standard of 400 $\mu\text{g}/\text{sq.ft}$ for porches (any entry-way that would not be included as part of an interior inspection).

Exterior means the outside of a building or metal structure and the areas around it within the boundaries of the property, including the outside of any detached structures, including but not limited to, outside and common walls, stairways, fences, light wells, breeze ways, sheds and garages.

Heat removal of paint shall mean the removal of paint by open flame or by the use of a heat gun or other device generating temperatures equal to or more than 1100 degrees Fahrenheit (40 C.F.R. § 745.227).

HEPA vacuum means a high efficiency particulate air filter capable of filtering 99.7 percent of fine particles of dust of 0.3 microns or larger in size.

HUD guidelines means the most recent Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing promulgated by the United States Department of Housing and Urban Development (HUD), issued pursuant to 42 U.S.C. § 1017 (1994).

Interior means the inside of a building or a partially enclosed exterior surface such as porch or balcony areas that are readily accessible to children, ages six and under.

Lead-based paint testing means testing of surfaces to determine the presence of lead-based paint performed by an independent certified risk assessor/inspector, in accordance with the HUD Guidelines, or EPA lead hazard regulations at 40 C.F.R. § 745.227. Where testing includes bulk paint samples, such samples are analyzed by an accredited laboratory.

Lead-based substances means any plaster, putty, paint, varnish, shellac or other coating on surfaces with lead in excess of 1.0 mg/cm^2 (milligrams per square centimeter) as measured by x-ray fluorescence (XRF) detector or laboratory analysis or in excess of 0.5 percent by weight, also expressed as 5,000 ppm (parts per million), 5,000 $\mu\text{g}/\text{g}$ (micrograms per gram), or 5,000 mg/kg (milligrams per kilogram) as measured by laboratory analysis or as currently defined by state or federal standards.

Manual scraping is the practice of removing paint via hand tools that predominantly creates paint chips as opposed to dust.

Metal structure means any structure that is not a building and which has exterior surfaces made of steel or other metal, such as bridges, billboards, walkways, water towers, steel tanks, and roadway or railway overpasses.

Occupant means any person, especially children, living, sleeping, cooking, eating in, or actually having possession of a building, except that a guest will not be considered an occupant.

Other methods of paint removal shall include, but not be restricted to, the removal of paint via confined power washing, sanding with a HEPA-vacuum attachment and abrasive blasting.

Owner means any person or agent of the owner who alone, jointly, or severally with others, shall have:

(1) Legal title to any premises or building, with or without accompanying actual possession therefore; and/or

(2) Charge, care, or control of any premises or building as owner or agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner.

Person means a natural person, his or her heirs, executors, administrators or assigns, and to the extent allowable by law, a firm, joint stock company, business concern, association, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid, or other legal entity.

Power washing is the practice of cleaning painted surfaces or removing paint via a pressurized stream of water.

Prohibited practices means work practices prohibited under this article.

Qualified laboratory means an academic research laboratory with a record of peer review publications on the topic of lead. A homeowner, contractor, or other individual may submit samples to a qualified laboratory to determine the presence of lead.

Readily accessible means when, in the judgment of the Director of the department of health, or his designated representative, a lead-based substance is in a flaking, peeling or chipping condition on a surface from which it may be chewed or ingested by children who inhabit or frequent the premises.

Regulated area means an area in which work is being performed that disturbs or removes paint, and to which access is restricted in order to prevent migration of paint contaminants. "Regulated area" shall also include any area contaminated with lead paint contaminants as a result of a breach or lack of containment barriers or a violation of the containment requirement set forth in section 317(a).

Responsible party means either: (1) the owner of the property where the owner or the owner's employees or persons otherwise under the control of the owner are performing the activities regulated under this article; or (2) the owner and the contractor where the owner has entered into a contract with another to carry out the activities regulated under this article.

Surface means the outermost layer up to one-eighth inch of the superficial area of a building, including, but not limited to, the outermost layer of superficial areas of the walls, ceilings, floors, stairs, windows, window sills, window frames, window sashes, doors, door frames, baseboards, and woodwork of a building.

Unconfined power sanding or grinding shall mean the use of electric or hydraulic powered sanding or grinding tools for the removal of paint that do not have attachments that while sanding or grinding paint simultaneously vacuum dust and chips into a HEPA filtered vacuum device along with ground cover or otherwise contain and control chips and dust from being released into the environment.

§ 60-202. Applicability. [New Orleans Sec. 82-316]

A. Generally.

No person shall disturb or remove lead paint, or in any other way generate excessive, lead containing dust or excessive airborne lead concentrations as defined in § 60-201 during work on the interior or exterior of any existing building or structure except in accordance with the requirements of this article with respect to occupant protections, worksite preparation, and safe work practices.

B. Exemptions.

This article shall not apply to activities that disturb or remove paint where those activities are being performed on buildings on which construction was completed after December 31, 1977 or on new construction.

C. Presumption of Lead Paint.

(1) For purposes of this article, all paint on the interior or exterior of any residential building on which the original construction was not completed prior to January 1, 1978, shall be presumed to be a lead-based substance.

(2) For purposes of this article, all paint on the exterior of any non-residential structure completed prior to January 1, 1978 shall be presumed to be a lead-based substance. Any person seeking to rebut this presumption shall establish through lead-based paint testing or other means satisfactory to the Director, that the paint on the building or structure in question is not lead-based paint.

§ 60-203. Notification requirements. [New Orleans Sec. 82-318]

A. Contents of notice.

Except as exempted by this Article, prior to the commencement of work that will involve disturbing or removing lead-based paint (or presumed lead-based paint), the owner or other person acting on his or her behalf, shall provide written notice to the Director either in person, by certified mail, or by fax, describing the:

- (1) Location of the project;
- (2) Scope of work;
- (3) Methods and tools for paint disturbance and/or removal;
- (4) Approximate age of the building;
- (5) Anticipated job start and completion dates for work subject to this article;
- (6) Use and tenure of the building (residential or nonresidential, and whether it is owner-occupied or rental property);
- (7) Dates by which the responsible party has or will fulfill any tenant or adjacent property notification requirements as described in § 60-203 pars. D, E, and F below; and
8. Name, address, telephone number, and if available, fax and pager number, of the party who will perform the specified work;
9. The identifying information regarding the Lead Safe Work Practices course taken by the persons performing the work, including the date of completion and the name of the person or agency who provided the training;
10. Containment procedures to be used;
11. Relocation procedures and options for occupants, if any.

B. Form of notice.

The Director shall make available to the public a form that complies with the requirements of § 60-203, par. A, and contains blank spaces for the required information.

C. Sign required when exterior lead-based paint (or presumed lead-based paint) is disturbed:

Not later than the commencement of any activity subject to this article, the owner, or the contractor when the owner has entered into a contract with a contractor to perform work on the exterior of a building or structure, that is subject to this article, shall post signs in a location or locations clearly visible to the adjacent properties stating the following:

LEAD WORK IN PROGRESS

PUBLIC ACCESS TO WORK AREA PROHIBITED

POSTED IN ACCORDANCE WITH CHAPTER 60, ARTICLE 2,
OF THE CITY OF ROCHESTER LEAD POISONING PREVENTION CODE
FOR FURTHER INFORMATION, PHONE: -----

The sign required by this subsection shall be not less than 24 inches square, and shall be in large boldface capital letters no less than one-half inch in size. The Director shall make available to the public a sample form that complies with these requirements and states the required information in English and Spanish. The sign required by this subsection shall remain in place until the time that the work subject to this subsection has been completed.

Where it is not possible to post signs in a conspicuous location or locations clearly visible to the adjacent properties, the owner, or where the owner has entered into a contract with a contractor to perform work subject to this article, the contractor shall provide the notice in written form, such as a letter or memorandum, to the occupants of adjacent properties.

D. Notice to tenants.

Where work subject to the requirements of this article is to be performed on the interior or exterior of buildings occupied by one or more tenants, not less than three business days before work subject to this article is to commence, the owner shall provide the following information:

(1) Contents of notice.

Provide written notice to tenants of the building on which the work is being performed that lead-related work is being performed. This notice shall be in the compliance with the EPA pre-renovation notification rules set forth in 40 C.F.R. § 745, including the "acknowledgement and certification statement" procedures described therein, and shall include notice in the form of a sign, letter, or memorandum; and shall prominently state the following:

"Work is scheduled to be performed beginning [date] on this property that may disturb or remove lead-based paint. The persons performing this work are required to follow federal, state, and local laws regulating work with lead-based paint. You may obtain information regarding these laws, or report any suspected violations of these laws, by calling the Director of the NET Office at _____. The owner of this property is also required to provide tenants with a copy of the U.S. Environmental Protection Agency pamphlet entitled "Protect Your Family From Lead in Your Home."

The Director shall make available to the public a form that states the required information in English and Spanish.

(2) Availability of pamphlet.

The owner shall provide to all tenants in the building, the U.S. Environmental Protection Agency pamphlet entitled "Protect Your Family From Lead in Your Home."

E. Notice by contractor.

Where work subject to the requirements of this article is being performed by a contractor, the contractor shall at least three business days prior to the commencement of work on residential property subject to this article, notify the property owner of potential lead hazards during the project by delivering the U.S. Environmental Protection Agency pamphlet entitled "Protect Your Family From Lead in Your Home."

F. Early commencement of work by owner.

A property owner may commence, or may authorize a contractor to commence, work subject to this article less than three business days after providing notices required above when the property owner determines that such work must be commenced immediately to correct an emergency condition when a delay would pose an immediate threat to the safety or well-being of the building's occupants or to correct life-safety hazards.

G. Early commencement of work requested by tenant.

Upon written request of a tenant, an owner may commence or authorize a contractor to commence, work subject to this article on that tenant's premises less than three business days after providing notices required in subsections § 60-203 par. D and E above.

H. Notice by paint retailer, tool or equipment supplier.

Sellers, retailers of paint, or anyone(including tool libraries) renting or selling tools or equipment that is commonly used for purposes that disturb painted surfaces shall be required to post a sign which informs the purchasers of paint as follows:

For buildings or structures constructed prior to 1978, Article 2 of the City of Rochester Lead Paint Poisoning Prevention Code, (Chapter 60 of the Code of the City of Rochester) requires, that in the course of removing or disturbing old paint, you use certain containment measures such as ground cover when scraping paint from surfaces and/or a HEPA vacuum attachment when power sanding lead paint from surfaces. You must also notify the City of Rochester via a form provided by the City available from this retailer or by calling _____.

I. Notifying bidders.

In any instance where a property owner or contractor is requesting bids for work that is subject to this article, the property owner or contractor shall notify all bidders of any paint inspection reports verifying the presence of any lead-based paint in the regulated area of the proposed project.

§ 60-204. Occupant protection and worksite preparation [HUD regs, 24 CFR §35.1345]

This section establishes procedures for protecting dwelling unit occupants and the environment from contamination from lead-contaminated or lead-containing materials during certain hazard reduction activities.

A. Occupant protection.

(1) Occupants shall not be permitted to enter the worksite during hazard reduction activities (unless they are employed in the conduct of these activities at the worksite), until after hazard reduction work has been completed and clearance, if required, has been achieved.

(2) Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards, except if:

(a) Treatment will not disturb lead-based paint, dust-lead hazards or soil-lead hazards;

(b) Only the exterior of the dwelling unit is treated, and windows, doors, ventilation intakes and other openings in or near the worksite are sealed during hazard control work and cleaned afterward, and entry free of dust-lead hazards, soil-lead hazards, and debris is provided;

(c) Treatment of the interior will be completed within one period of 8-daytime hours, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards (e.g., exposed live electrical wiring, release of toxic fumes, or on-site disposal of hazardous waste); or

(d) Treatment of the interior will be completed within 5 calendar days, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, treatment does not create other safety, health or environmental hazards; and, at the end of work on each day, the worksite and the area within at least 10 feet (3 meters) of the containment area is cleaned to remove any visible dust or debris, and occupants have safe access to sleeping areas, and bathroom and kitchen facilities.

(3) The dwelling unit and the worksite shall be secured against unauthorized entry, and occupants' belongings protected from contamination by dust-lead hazards and debris during hazard reduction activities. Occupants' belongings in the containment area shall be relocated to a safe and secure area outside the containment area, or covered with an impermeable covering with all seams and edges taped or otherwise sealed.

B. Worksite preparation.

(1) The worksite shall be prepared to prevent the release of leaded dust, and contain lead-based paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed. Practices that minimize the spread of leaded dust, paint chips, soil and debris shall be used during worksite preparation.

(2) A warning sign shall be posted at each entry to a room where hazard reduction activities are conducted when occupants are present; or at each main and secondary entryway to a building from which occupants have been relocated; or, for an exterior hazard reduction activity, where it is easily read 20 feet (6 meters) from the edge of the hazard reduction activity worksite. Each warning sign shall be as described in 29 CFR 1926.62(m), except that it shall be posted irrespective of employees' lead exposure and, to the extent practicable, provided in the occupants' primary language.

§ 60-205. Safe work practices [§35.1350]

A. Prohibited methods.

Methods of paint removal listed in 24 CFR §35.140 shall not be used.

B. Occupant protection and worksite preparation.

Occupants and their belongings shall be protected, and the worksite prepared, in accordance with §60-204. A person performing this work shall be trained on hazards and either be supervised or have successfully completed one of the specific courses in accordance with 24 CFR §35.1330(a)(4). [Note: reflects 3/21/04 amendment to HUD reg]

C. Specialized cleaning.

After hazard reduction activities have been completed, the worksite shall be cleaned using cleaning methods, products, and devices that are successful in cleaning up dust-lead hazards, such as a HEPA vacuum or other method of equivalent efficacy, and lead-specific detergents or equivalent.

D. De minimis levels.

Safe work practices are not required when maintenance or hazard reduction activities do not disturb painted surfaces that total more than:

- (1) 20 square feet (2 square meters) on exterior surfaces;
- (2) 2 square feet (0.2 square meters) in any one interior room or space; or
- (3) 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include window sills, baseboards, and trim.

§ 60-206. Ongoing lead-based paint maintenance and reevaluation activities. [§35.1355]

A. Ongoing Maintenance.

- (1) Once a unit has been determined to have lead-based paint hazards, maintenance activities shall be conducted in accordance with paragraphs A(2)-(6) of this section. [reflects 6/21/04 amendment to HUD regulations].
- (2) Owners shall visually inspect for deteriorated paint at unit turnover and every twelve months.
- (3) (i) Deteriorated paint. All deteriorated paint on interior and exterior surfaces located on the residential property shall be stabilized in accordance with standards set out in 24 CFR §35.1330(a)(b), except for any paint that an evaluation has found is not lead-based paint.
- (ii) Bare soil. All bare soil shall be treated with standard treatments in accordance with §35.1335(d) through (g), or interim controls in accordance with §35.1330(a) and (f); except for any bare soil that a current evaluation has found is not a soil-lead hazard.
- (4) Safe work practices, as required by § 60-205, shall be used when performing any maintenance or renovation work that disturbs paint that is known to be, or presumed to be, lead-based paint.

(5) Any encapsulation or enclosure of lead-based paint or lead-based paint hazards which has failed to maintain its effectiveness shall be repaired, or abatement or interim controls shall be performed in accordance with 24 CFR §35.1325 or 35.1330, respectively.

(6) Clearance testing of the worksite shall be performed at the conclusion of repair, abatement or interim controls in accordance with 24 CFR §35.1340.

(7) Each dwelling unit shall be provided with written notice asking occupants to report deteriorated paint and, if applicable, failure of encapsulation or enclosure, along with the name, address and telephone number of the person whom occupants should contact. The language of the notice shall be in accordance with 24 CFR §35.125(c)(3). The designated party shall respond to such report and stabilize the deteriorated paint or repair the encapsulation or enclosure within 30 days.

B. Re-evaluation.

Reevaluation shall be conducted in accordance with this paragraph, and the designated party shall conduct interim controls of lead-based paint hazards found in the reevaluation.

(1) Re-evaluation shall be conducted if hazard reduction has been conducted to reduce lead-based paint hazards found in a risk assessment or if standard treatments have been conducted, except that reevaluation is not required if any of the following cases are met:

(a) An initial risk assessment found no lead-based paint hazards;

(b) A lead-based paint inspection found no lead-based paint; or

(c) All lead-based paint was abated in accordance with 24 CFR §35.1325, provided that no failures of encapsulations or enclosures have been found during visual assessments conducted in accordance with 24 CFR §35.1355(a)(2) or during other observations by maintenance and repair workers in accordance with 24 CFR §35.1355(a)(5) since the encapsulations or enclosures were performed.

(2) Re-evaluation shall be conducted to identify:

(a) Deteriorated paint surfaces with known or suspected lead-based paint;

(b) Deteriorated or failed interim controls of lead-based paint hazards or encapsulation or enclosure treatments;

(c) Dust-lead hazards; and

(d) Soil that is newly bare with lead levels equal to or above the standards in 24 CFR §35.1320(b)(2).

(3) Each re-evaluation shall be performed by a certified risk assessor.

(4) Each re-evaluation shall be conducted in accordance with the following schedule if a risk assessment or other evaluation has found deteriorated lead-based paint in the residential property, a soil-lead hazard, or a dust-lead hazard on a floor or interior windowsill. (Window troughs are not sampled during reevaluation).:

(a) The first re-evaluation shall be conducted no later than two years from completion of hazard reduction.

(b) Subsequent re-evaluation shall be conducted at intervals of two years, plus or minus 60 days.

(5) To be exempt from additional re-evaluation, at least two consecutive reevaluations conducted at such two-year intervals must be conducted without finding lead-based paint hazards or a failure of an encapsulation or enclosure. If, however, a reevaluation finds lead-based paint hazards or a failure, at least two more consecutive reevaluations conducted at such two year intervals must be conducted without finding lead-based paint hazards or a failure.

(6) Each re-evaluation shall be performed as follows:

(a) Dwelling units and common areas shall be selected and re-evaluated in accordance with 24 CFR §35.1320(b).

(b) The worksites of previous hazard reduction activities that are similar on the basis of their original lead-based paint hazard and type of treatment shall be grouped. Worksites within such groups shall be selected and reevaluated in accordance with §35.1320(b).

(7) Each re-evaluation shall include reviewing available information, conducting selected visual assessment, recommending responses to hazard reduction omissions or failures, performing selected evaluation of paint, soil and dust, and recommending response to newly-found lead-based paint hazards.

(a) Review of available information. The risk assessor shall review any available past evaluation, hazard reduction and clearance reports, and any other available information describing hazard reduction measures, ongoing maintenance activities, and relevant building operations.

(b) Visual assessment. The risk assessor shall:

(i) Visually evaluate all lead-based paint hazard reduction treatments, any known or suspected lead-based paint, any deteriorated paint, and each exterior site, and shall identify any new areas of bare soil;

(ii) Determine acceptable options for controlling the hazard; and

(iii) Await the correction of any hazard reduction omission or failure and the reduction of any lead-based paint hazard before sampling any dust or soil the risk assessor determines may reasonably be associated with such hazard.

(c) Reaction to hazard reduction omission or failure. If any hazard reduction control has not been implemented or is failing (e.g., an encapsulant is peeling away from the wall, a paint-stabilized surface is no longer intact, or gravel covering an area of bare soil has worn away), or deteriorated lead-based paint is present, the risk assessor shall:

(i) Determine acceptable options for controlling the hazard; and

(ii) Await the correction of any hazard reduction omission or failure and the reduction of any lead-based paint hazard before sampling any dust or soil the risk assessor determines may reasonably be associated with such hazard.

(d) Selected paint, soil and dust evaluation.

(i) The risk assessor shall sample deteriorated paint surfaces identified during the visual assessment and have the samples analyzed, in accordance with 40 CFR 745.227(b)(3)(4), but only if reliable information about lead content is unavailable.

(ii) The risk assessor shall evaluate new areas of bare soil identified during the visual assessment. Soil samples shall be collected and analyzed in accordance with 40 CFR 745.227(d)(8)-(11), but only if the soil lead levels have not been previously measured.

(iii) The risk assessor shall take selected dust samples and have them analyzed. Dust samples shall be collected and analyzed in accordance with 24 CFR §35.1320(b). At least two composite samples, one from floors and the other from interior windowsills, shall be taken in each dwelling unit and common area selected. Each composite sample shall consist of four individual samples, each collected from a different room or area. If the dwelling unit contains both carpeted and uncarpeted living areas, separate floor samples are required from the carpeted and uncarpeted areas. Equivalent single-surface sampling may be used instead of composite sampling.

(8) The risk assessor shall provide the designated party with a written report documenting the presence or absence of lead-based paint hazards, the current status of any hazard reduction and standard treatment measures used previously and any newly conducted evaluation and hazard reduction activities. The report shall include the information in 40 CFR 745.227(d)(11), and shall:

(a) Identify any lead-based paint hazards previously detected and discuss the effectiveness of any hazard reduction or standard treatment measures used, and list those for which no measures have been used.

(b) Describe any new hazards found and present the owner with acceptable control options and their accompanying reevaluation schedules.

(c) Identify when the next reevaluation, if any, must occur, in accordance with the requirements of paragraph (b)(4) of this section.

C. Response to the reevaluation.

(1) Hazard reduction omission or failure found by a reevaluation. The designated party shall respond in accordance with paragraph B(7)(c)(i) of this section to a report by the risk assessor of a hazard reduction control that has not been implemented or is failing, or that deteriorated lead-based paint is present.

(2) Newly-identified lead-based paint hazard found by a reevaluation. The designated party shall treat each:

(a) Dust-lead hazard or paint lead hazard by cleaning or hazard reduction measures, which are considered completed when clearance is achieved in accordance with 24 CFR §35.1340.

(b) Soil-lead hazard by hazard reduction measures, which are considered completed when clearance is achieved in accordance with 24 CFR §35.1340.

§ 60-207. Non-Compliance. [from New Orleans Sec. 82-318]

A. Complaints. 3

Any person who believes that an activity is being carried out in violation of this article may orally or in writing notify the Director that he or she believes such violation is taking place. The Director shall cause a written record to be made of the complaint, which record shall be retained and made available for public inspection.

B. Response to complaint.

Upon receiving a complaint, the Director shall:

- (1) Review the complaint;
- (2) Determine whether a valid notification form has been filed, if required, for the property in compliance with the requirements of § 60-203; and
- (3) Where deemed necessary by the Director, conduct an inspection at the job site to determine the validity of the complaint.

C. Evaluation of complaint.

When determining the validity of a complaint, if the Director or his or her designee is not able to observe the actual performance of any work practices constituting violations of the performance standards of § 60-203, the Director shall investigate and consider the following:

- (1) The containment measures and work tools being used by the responsible party;
- (2) The color(s) of paint being disturbed or removed by the responsible party;
- (3) The color(s), quantities, nature, and locations of alleged visible lead paint contaminants;
- (4) The colors, locations, and conditions of paint on adjacent properties to determine if such paint could be a source of the alleged visible lead paint contaminants;
- (5) Any work being performed on adjacent properties which could be a source of the alleged visible lead paint contaminants; and
- (6) Any other relevant evidence that the Director determines in the exercise of his or her discretion would help to determine whether a violation of this article has occurred.

3 [Not in New Orleans ordinance, but necessary to make sense of the next paragraph calling for a "response."]

§ 60-208. Enforcement of Lead Safe Work Practice Requirements. [from New Orleans Sec. 82-320]

In addition to the enforcement authority provided in Article 5, the Director is authorized as follows:

A. Authority of Director to sample.

Subject to limitations on entry and inspections referenced in paragraph D below, the Director may collect paint, dust, and soil samples from, or apply an X-ray fluorescent (XRF) analyzer to, the property where the work is being performed and from adjacent properties in order to determine the validity of a complaint.

B. Enforcement authority.

The Director may, following issuance of a notice of violation, require as a condition of resuming work, that the responsible party conduct a special inspection by a certified risk assessor in order to establish that the regulated area is in compliance with this article.

C. Stop work orders.⁴

The Director may stop any work that is disturbing or removing lead paint or otherwise generating lead paint contaminants in violation of this article or the construction, alteration or repairs of any metal structure or building subject to the requirements of this article when, in the opinion of the Director, such work is being done in violation of any of the provisions of this article. The Director shall notify the owner of the property or the owner's agent to suspend all work, and any such persons shall forthwith stop work and suspend all building activities until the stop-work has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served either by delivering it personally or by posting it conspicuously where the work is being performed and sending a copy of it by mail. The work shall be stopped immediately and shall not be resumed without authorization. Violations of stop-work orders may be referred to the Municipal Code Violations Bureau.

D. Remediation/specific performance.

The Director shall have the authority to immediately issue an order:

(1) To the owner or occupants to eliminate the hazard within a reasonable and specified period of time, after the issuance of such order when it is determined that, after an investigation, any location at which lead dust, lead chips or other lead-contaminated wastes are, or were handled, or otherwise came to be located, may create a danger to public health or the safety of any person or to the environment;

(2) Remove any workers, except those needed to abate the hazard, from the project work area until the condition is corrected in order to prevent further project activity;

4 New Orleans provision revised to parallel Rochester 39-211 provision.

(3) Evacuate appropriate portions of the site and vicinity until the condition is corrected.

E. Authority to enter upon property or inspect.

The Director or her/his designee is authorized to enter upon properties for and inspect for the purposes of enforcement of this Article in the same manner and subject to the same procedures applicable to enforcement of the Chapter 90, the Property Maintenance Code.

§ 60-209. Penalties and procedures for violations. [Par. B from New Orleans Sec. 82-321]

A. Violations of this Article are subject to the enforcement penalties and procedures provided for in Article 5 of this Chapter.

B. Alternative penalty.

A court of in which a judicial enforcement proceeding is pending, or the Municipal Code Violations Bureau in an administrative proceeding, may suspend any penalty imposed upon the condition that the responsible party attend and complete a training course approved by the state in lead-safe work practices. Any such course must be taken and completed within 30 days of the hearing held pursuant to this Code. The failure of the responsible party to submit proof of attendance and satisfactory completion of the course, including certification from the instructor or provider of the course, shall result in the penalty and any fees becoming immediately due and payable. This alternative remedy shall only be available to persons who have not previously completed such a training course, and who have not been previously found by the Director to be in violation of this article.

Article 3:

Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property

Contents:

§ 60-301. Purpose and Goal

§ 60-302. Definitions

§ 60-303. Education and Outreach

§ 60-304. Disclosure Obligations Prior to the Transfer of Real Property

§ 60-305. Disclosure Obligations Upon Receiving Notice of Lead Paint in a Rental Unit

§ 60-306. Continuing Obligation to Report Conditions in Rental Properties; Right to Vacate Hazardous Units Upon Disclosure and Failure to Correct.

§ 60-307. Enforcement; Private Right of Enforcement.

§ 60-301. Purpose and Goal.

A. Purpose.

In 1992 the United States Congress enacted The Residential Lead-Based Paint Hazard Reduction Act , 42 USC 4852d, (commonly known as "Title X"), to address the problem of lead-based paint hazards in our nation's homes. Section 1018 of Title X requires disclosure of known information about lead-based paint or lead-based paint hazards for most residential properties constructed before January 1978. The purpose of the federal disclosure requirements is to educate the public about the nature of the dangers posed by those hazards and to inform individuals about the existence of potential lead hazards in the properties in which they may reside.

This Article augments the disclosure requirements of the federal lead paint hazard disclosure law as follows:

(1) by extending the definition of properties subject to the disclosure requirement ("target housing"),

(2) by clarifying the applicability of that law to certain types of tenancies, particularly oral month-to-month tenancies,

(3) by requiring disclosure with respect to additional types of transfers (including transfers other than sale, i.e., involuntary transfers, transfers among family members and other transfer that do not involve "consideration" , and specifically including sales in foreclosure and property deeded in lieu of foreclosure), and

(4) by establishing mechanisms to assure compliance with the provisions of state, federal and local hazard disclosure requirements through local sanctions for violations.

In addition, this Article establishes a "private right of enforcement" available to purchasers, leasees (including all tenants and occupants of a property), neighbors, community organizations and any other persons or organizations affected by the failure to disclose the existence of lead-based paint and known lead-based paint hazards as required by this Article.

B. Goal.

The goal of this Article is to reduce lead poisoning for all persons in the City of Rochester and, in particular to immediately reduce, and by the year 2010 eliminate, incidents of lead poisoning in children in the City of Rochester.

C. Scope and Applicability.

(1) The requirements of this Article apply to all housing covered by Title X ("target housing" as defined at 24 CFR §35.86) and, in addition, to:

(a) Properties acquired through foreclosures and other involuntary transfers including but not limited to private foreclosures, bank foreclosures, tax foreclosures, dispositions in bankruptcy proceedings, and non-judicial foreclosures, and deeds in lieu of foreclosure;

(b) Rentals subject to short fixed-term leases (i.e. leases of a fixed duration of 100 days or less with no provision for renewal)

(c) Renewals of tenancies, regardless of the date of the inception of the tenancy, where the landlord has not yet disclosed the existence of lead-based paint or known lead hazards or the landlord has come into new information regarding the presence of lead-based paint or lead-based paint hazards;

(d) Rental units intended as "housing for the elderly" and housing for "persons with disabilities;" and

(e) Efficiency ("0-bedroom") dwellings;

(f) Any other transfer of residential property which was built prior to January 1978, or is known to contain lead-based paint or lead-based paint hazards, regardless of whether that transfer was for legal consideration (including gift transfers and bequeathed property).

2. Exemptions.

This Article shall not apply to:

- (a) Properties that are certified lead-based paint free by a certified lead inspector.
- (b) Properties that are used for dormitory housing, unless children six years of age or under reside in such housing or are expected to reside there.
- (c) Nursing homes or assisted living facilities.

§ 60-302. Definitions. [was § 60- 30c].

The definitions found in the implementing regulations for Title X of the federal Department of Housing and Urban Development at 24 CFR §35.86 shall apply except that the term "target housing" shall be read to include the housing identified in § 60-301 and the term "Lessee" shall be specifically construed to include all "month-to-month" tenancies and tenancies in all target housing regardless of whether those tenancies were created by written or oral leases.

In addition, for the purposes of this requirements added to the federal law by this Article, the following terms shall have the following meanings:

Agent means any party who enters into a contract with a seller or lessor, for the purpose of selling or leasing pre-1978 housing.

Certified Lead Inspector means a person who is certified by the EPA to conduct inspections for lead-based paint.

Certified Risk Assessor means a person who is certified by the EPA to conduct risk assessments.

Certified Sampling technician means a person as described in 24 CFR § 35.1340 as a person qualified to perform clearance examinations, that is, a person who is "a technician licensed or certified by EPA . . . to perform clearance examinations without the approval of a certified risk assessor or certified lead-based paint inspector, provided that a clearance examination by such a licensed or certified technician shall be performed only for a single-family property or individual dwelling units and associated common areas in a multi-unit property, and provided further that a clearance examination by a such a licensed or certified sampling technician shall not be performed using random sampling of dwelling units or common areas in multifamily properties, except that a clearance examination performed by such a licensed or certified sampling technician is acceptable for any residential property if the clearance examination is approved and the report signed by a certified risk assessor or a certified lead-based paint inspector.

Common Area means a portion of a building generally accessible to all residents/users including, but not limited to, hallways, stairways, laundry, and recreational rooms.

Department means the Department of Community Development of the City of Rochester.

Director means the Director of NET of the City of Rochester or his or her legally designated representative.

Lead-Based Paint means paint or other surface coating containing lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

Lead-Based Paint Free means pre-1978 housing that has been found by a Certified Lead Inspector to be free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

Lead-Based Paint Hazard means any condition that may cause exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse health effects, including lead based paint hazards as defined by EPA regulations (40 C.F.R. § 745.65), which provide numerical standards for lead in dust, soil, and paint.

Lead Hazard Evaluation Report means any reasonably obtainable records and reports pertaining to lead-based paint and/or lead-based paint hazards in pre-1978 housing.

Lead-Based Paint Inspection means a surface-by-surface investigation to determine the presence of lead-based paint as provided in section 302(c) of the Lead-Based Paint Poisoning and Prevention Act [42 U.S.C. 4822],

Lead Poisoning Prevention Settlement means a cash contribution or in-kind service to a project designed to advance primary prevention of lead poisoning, which a party agrees to in partial settlement of an enforcement action, but which the party is not otherwise legally obligated to perform.

Lead Poisoning Prevention Code Certificate means a certificate obtained in accordance with Article 1 of this Code.

Lead Safe Work Practice means the methods and standards designed to avoid the creation of lead-based paint hazards during work that disturbs painted surfaces in pre-1978 housing, including refraining from unsafe practices that generate lead-contaminated dust and incorporating measures to protect occupants and workers and minimize the dispersal of lead-contaminated dust and including the requirements of Article 2 of this Code.

Lessee means any person or entity that enters into an agreement to lease, rent, or sublease housing built before 1978.

Lessor means any individual or entity that offers housing built before 1978 for lease, rent, or sublease.

Purchaser means any person who acquires residential property that was built before 1978 or that is known to contain lead-based paint or lead-based paint hazards, regardless of whether that property was gifted, sold, or in any other manner transferred.

Risk Assessment means an on-site investigation to determine and report the existence, nature, severity, and location of lead-based paint hazards in residential dwellings, including:

- (1) Information gathering regarding the age and history of the housing and occupancy by children age 6 and under;
- (2) Visual inspection;
- (3) Limited wipe sampling or other environmental sampling techniques;
- (4) Other activity as may be appropriate; and
- (5) Provision of a report explaining the results of the investigation.

Seller in addition to the persons described in the definition at 24 CFR § 35.86 includes any person transferring title to target housing as defined in § 60-301, regardless of whether consideration is provided for the transfer.

Tenant means any occupant of a leased or sub-leased property. When a distinction is intended to limit the applicability of this Article to the named Lessee of a residential unit, the term "Lessee" shall be used

Violation means an individual's failure to comply with any requirement of this Article, and each failure to comply with any provision of this Article constitutes a separate violation.

§ 60-303. Education and Outreach.

A. Information⁴

The Department shall inform the public, including owners of residential property being sold or leased, their agents, and child care providers of their rights and responsibilities under this Article, and shall prepare a lead hazard "Evaluation Upon Sale" checklist and an "Evaluation Upon Leasing" checklist to be made available to all sellers, lessors, or other transferors of title or interests in real property which shall be used to comply with the requirements of § 60.304 below.

B. Pamphlet

The Department shall make available the EPA educational pamphlet entitled "Protect Your Family From Lead in Your Home." The Department shall prepare and distribute an insert to accompany the EPA pamphlet. The insert shall summarize the provisions of this Article as well as any other applicable lead poisoning prevention laws and shall be provided in the same language as the EPA pamphlet.

⁴ [Drafter note: inspection list is to be designed to put seller on notice of potentially hazardous conditions, including specifically deteriorated paint conditions-- particularly in windows and other impact or chewable surfaces—and should be similar in format to the HUD Section 8 Housing Quality Standards inspection form, but focusing on potential paint hazards. The form checklist should include in the heading the year the property was built, or best estimate of that date.]

§ 60-304. Due Diligence and Disclosure Obligations Prior to the Sale or Lease of Residential Property.

A. Due Diligence Obligations.

1. Sellers.

Prior to the sale, or other transfer of title of any residential property built prior to 1978 or other property that is known to contain lead-based paint or lead-based paint hazards, the seller, or transferor, or agent acting on his or her behalf, shall inspect the property, or cause an inspection to be made of the property using the "Evaluation Upon Sale" checklist prepared and made available by the City pursuant to § 60.303 to determine whether any deteriorating paint conditions exist, including chalking, chipping, flaking, cracking, peeling or otherwise damaged or deteriorated paint, and if so, whether any bare soil is reasonably proximate to the deteriorating paint, and whether paint dust or paint chips are visible, provided however, that properties for which a Lead Poisoning Prevention Code Certificate has been obtained pursuant to Article 1 of this Code shall be exempt from this inspection requirement. The checklist prepared pursuant to this provision is to be signed and dated by the seller and the person completing the inspection together with sufficient information to identify and contact that person. An original of the completed checklist is to be provided to the purchaser or other transferee, and a copy of the checklist signed by the purchaser or transferee, acknowledging receipt of the checklist, is to be retained by the seller.

2. Lessors.

Prior to the leasing or subleasing of any residential property built prior to 1978 or other property that is known to contain lead-based paint or lead-based paint hazards, the lessor or sub-lessor or agent acting on his or her behalf, shall inspect the property, or cause an inspection to be made of the property using the "Evaluation Upon Leasing" checklist prepared and made available by the City pursuant to § 60.303 to determine whether any deteriorating paint conditions exist, including chalking, chipping, flaking, cracking, peeling or otherwise damaged or deteriorated paint, and if so, whether any bare soil is reasonably proximate to the deteriorating paint, and whether any paint dust or paint chips are visible, provided however, that properties for which a Lead Poisoning Prevention Code Certificate has been obtained pursuant to Article 1 of this Code shall be exempt from this inspection requirement. The checklist prepared pursuant to this provision is to be signed and dated by the lessor and the person completing the inspection together with sufficient information to identify and contact that person. An original of the completed checklist is to be provided to the lessee, and a copy signed by the lessee, acknowledging receipt of the checklist, is to be retained by the lessor.

B. Disclosure Obligations

Before a purchaser or tenant is obligated under any contract to purchase or lease target housing, the seller or lessor shall:

(1) Provide the purchaser or tenant with the EPA lead hazard information pamphlet and an insert as prescribed by the Department; and

(2) Disclose to the purchaser or tenant, both orally and in writing, the presence of any known or presumed lead-based paint and/or lead-based paint hazards; including specifically the presence of any conditions identified in the evaluation required by paragraph A above, and

(3) Provide the purchaser or tenant with a copy of any lead hazard evaluation reports or other records or reports pertaining to the dwelling which evidence the existence of lead-based paint or lead-based paint hazards, and the evaluation checklist described in paragraph A above; and

(4) Disclose to the purchaser or tenant whether a Lead Poisoning Prevention Code Certificate was required for the property pursuant to Article 1 and, if so, whether the Certificate has been obtained; and

(5) Allow the purchaser or tenant at least 10 days to conduct a risk assessment or lead-based paint inspection of the property.

C. Acknowledgment

All contracts or oral agreements for the purchase or leasing of property constructed prior to 1978 or other properties which are known to contain lead-based paint or lead based paint hazards must be accompanied by a written copy of the federal Lead Warning Statement and an Acknowledgment signed by the purchaser or tenant.

The Acknowledgment must state that the purchaser or tenant has:

(1) Read the Lead Warning Statement and understands its contents; and

(2) Received an EPA lead-hazard information pamphlet and the locally supplemented insert; and

(3) Received oral and written disclosure from the seller, lessor, or their agent concerning any known lead-based paint and/or lead-based paint hazards; and

(4) Received any lead hazard evaluation reports and other required information; and

(5) Had at least 10 days to conduct a risk assessment or inspection for the presence of lead-based paint and/or hazards in the property before becoming obligated under the contract to purchase or lease the housing.

D. Lead Warning Statement

(1) Every contract for sale of target housing shall contain the federal Lead Warning Statement in large type on a separate sheet of paper attached to the contract. The Lead Warning Statement shall state as follows:

"Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify

the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase."

(2) Every contract for lease of target housing shall contain the federal Lead Warning Statement in large type on a separate sheet of paper.

The Lead Warning Statement shall state the following:

"Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention."

(3) In addition, with respect to leases of target housing, the federal Lead Warning Statement shall be supplemented with the following statements:

"As a tenant, you are entitled to protections under federal, state, and local laws. Your landlord cannot prevent you from enforcing your rights by threatening to evict you, by refusing to renew your lease, by threatening to raise your rent, or by taking any other action in retaliation for your contacting the city or a federal or state, agency to enforce your rights. If your landlord fails to tell that your house or apartment contains lead paint or has lead paint hazards, or takes or threatens to take any action in retaliation for you having attempted to enforce your right to lead-safe housing, you have the right to make sure your landlord complies with the law and to be

compensated for any financial damages you suffer if he or she has not complied with the law, including the cost of obtaining a lead paint inspection by an person certified to do lead paint inspections.

"All tenants whose landlords are required to be given this notice have rights under the City of Rochester's "Lead Poisoning Prevention Code" (Chapter 60 of the Rochester City Code, available at the public library). Those protections, under certain circumstances, include having your obligation to pay rent "abated" (suspended) if your landlord fails to remove any lead-based paint violations within six months after having been cited by the city's code enforcement authorities to remove those hazards. A court may later determine that your rent obligation is suspended until those violations are remedied, but you do not have an absolute right to withhold your rent and you should not withhold your rent unless you have first obtained advice from a lawyer. Legal Assistance may be available at no charge to your by calling _____. Even if you may be entitled to withhold your rent, in order to raise a claim for rent abatement in a court action or other proceeding you may be required to deposit all of your rent due with the Court until the issue can be decided by a judge. In addition, if you or any residents or guests in your apartment have caused or contributed to creating the hazardous condition, you may lose all or a portion of your claim to a reduction of rent.

"In addition to the rights provided under state law and otherwise provided by the Rochester Lead Poisoning Prevention Code, if lead hazards in your house or apartment are not controlled within 60 days after you have been told about those hazards, you may, but are not required to, vacate the dwelling unit without being liable for any further obligations under your oral or written lease agreement."

E. Disclosure to Agents.

A seller or lessor shall disclose to any agent working on behalf of the seller or lessor all known information about lead-based paint and/or lead-based paint hazards.

F. Agents.

(1) Whenever a seller or lessor has entered into a contract with an agent for the purpose of selling or leasing target housing, the agent, on behalf of the seller or lessor, must inform the sellers of their obligations under this Article and ensure compliance with the requirements of this Article.

(2) This section shall apply to any agent working on behalf of a buyer or tenant that receives all or partial compensation from a seller or lessor.

(3) Agents who have complied with their duties under this section shall not be liable for a purchaser or lessor's failure to disclose lead-based paint or lead-based paint hazards, so long as the lead hazards were not disclosed to the agent.

§ 60-306. Continuing Obligation to Report Conditions in Rental Properties; Right to Vacate Hazardous Units Upon Disclosure and Failure to Correct.

A. Continuing Obligation of Lessors

Upon obtaining information subsequent to the leasing of a subject residential property which pertains to the existence of lead-based paint or the presence of lead-based paint hazards that has not been previously disclosed or was not previously available, the lessor shall provide written notification to all building occupants regarding such conditions.

B. Right of Tenants to Vacate Hazardous Units Upon Failure to Correct.

In addition to the rights provided under state law and otherwise provided by the Rochester Lead Poisoning Prevention Code, if lead hazards in the dwelling unit are not controlled within 60 days after disclosure takes place, the tenant may, but is not required to, vacate the dwelling unit without violating the lease agreement.

§ 60-307. Enforcement; Private Right of Action.

A. Enforcement by City.

Violations of this Article are subject to enforcement as provided in Article 5. With respect to the claims related specifically to violations of this Article, however, no fines shall be assessed unless it has been proved that the property owner's violation of this Article was willful, and the court or Municipal Code Violations Bureau is to be lenient in assessing fines with respect a first time violation unless it is shown that the property owner's violation was in willful disregard of the disclosure requirements of this Article. Additionally, no fine is to be assessed under this Article until such time as the City has made available the materials required to be provided under § 60-303.

B. Enforcement by private parties.

In conjunction with a private enforcement action or proceeding as authorized by §60-408, a person aggrieved by a violation of this Article shall have available all of the remedies that would be available in a private right of enforcement action or proceeding commenced under the Title X, 42 USC §§ 4852d(b)(3) and (5); but extended to the types of housing covered by this Article and the additional disclosure requirements contained herein.

[Drafter note: The provisions from the April 1 draft regarding Child Care Facilities have been deleted. It was the belief of the workgroup that those provisions should be addressed in a later amendment to the Lead Poisoning Prevention Code.]

Article 4:
PROTECTIONS FOR OCCUPANTS;
RIGHT TO VACATE PREMISES;
PRIVATE RIGHT OF ENFORCEMENT;
HOUSING REGISTRY

Contents:

§ 60- 401. Purpose.

§ 60- 402. Prohibition of Retaliatory Action.

§ 60- 403. Notification to County of Lead Hazardous Conditions.

§ 60- 404. Designation of Uncorrected Lead Hazardous Conditions as Rent Impairing Violations; Notice to Owner and Tenants.

§ 60- 405. Notice to Tenants of Right to Have Premises Free of Conditions That Are Detrimental to Health and Safety.

§ 60- 406. Documentation of Conditions.

§ 60- 407. Right to Vacate.

§ 60- 408. Private Right of Enforcement of Lead Poisoning Prevention Code.

§ 60- 409. Database of Lead Safe Properties.

§ 60- 401. Purpose.

It is the purpose of this Article to assure that residents of rental properties are protected from any form of retaliation or other adverse consequences as a result of asserting their rights (or having

others assert protections on their behalf) under the City of Rochester's Lead Poisoning Prevention Code or under any other local, state or federal law intended to provide protections against lead poisoning, and to further assure that mechanisms are available for enforcement of those laws.

It is the further purpose of this Article to facilitate the effectiveness of existing state laws governing the use and occupancy of rental properties to the extent to which those laws may be available for purposes related to the prevention of lead poisoning, including Social Services Law §143-b, Real Property Law §§223-b and 235-b, and Real Property Actions and Proceedings Law §755.

Finally, this Article provides mechanisms to help tenants obtain lead-safe housing by increasing the availability to the public of information regarding lead-safe properties, and under certain circumstances, permitting tenants to vacate property that may be unsafe. This Article advances that purpose by making sure that courts are provided with information regarding lead-based paint related conditions to facilitate the effective enforcement of local, state, and federal protections related to lead safety in the prosecution or defense of judicial proceedings.

For the purposes of this Chapter, laws and code protections regarding damaged or deteriorated paint in buildings constructed prior to 1978 shall be deemed to be complaints related to laws intended to facilitate the prevention of lead poisoning.

§ 60- 402. Prohibition of Retaliatory Action.

A. It is unlawful for an owner, or any person acting on his or her behalf, to take any retaliatory action toward a tenant who reports a suspected lead-based paint hazard to the owner or to the Department. Retaliatory actions include but are not limited to any actions that materially alter the terms of the tenancy (including rent increases and non-renewals) or interfere with the occupants' use of the property.

B. There shall be a rebuttable presumption that any attempt by the owner to raise rents, curtail services, refuse to renew or attempt to evict a tenant within six months after any report to the Department or the owner or any enforcement action in connection with a suspected lead hazard is a retaliatory action in violation of this section, except that in instances of nonpayment of rent or commission of waste upon the premises by the tenant no such presumption shall apply. After six months from the date of the reporting of a suspected lead hazard, or the most recent activity related to any enforcement action, the defense of retaliatory eviction shall remain available to the tenant, but without the benefit of the presumption created by this section.

C. The provisions of this section shall not be given effect in any case in which it is established that the condition from which the complaint or action arose was caused by the tenant, a member of the tenant's household, or a guest of the tenant. Nor shall it apply in a case where a tenancy was terminated pursuant to the terms of a lease as a result of a bona fide transfer of ownership.

§ 60- 403. Notification to County of Lead Hazardous Conditions.

With respect to households in which renters are in receipt of assistance through the Monroe County Department of Health and Human Services, the City of Rochester shall send notices to the County, to the tenant, and to the City Court describing any lead hazardous conditions that have been identified (including the existence of any damaged or deteriorated paint in a dwelling built prior to 1978), and to include in the content of such notices the information necessary to facilitate implementation of the protections afforded to residents under Social Services Law § 143-b.

§ 60- 404. Designation of Uncorrected Lead Hazardous Conditions as Rent Impairing Violations; Notice to Owner and Tenants.⁵

⁵ [Drafter note: The language in this provision parallels the language of Multiple Residence Law 305-a that addresses conditions identified by the State Building Codes Council as “rent impairing.” The Council no longer updates that list, which was prepared prior to the enactment state and federal lead-paint statutes].

A. Lead hazardous conditions in multiple dwellings (buildings with three or more residential units) that have gone uncorrected for more than six months after notice to the owner constitute "rent impairing violations." The initial notice sent by the Department with respect to any violation of this Chapter relating to conditions in a rental shall be provided to both the owner and the tenant and shall advise that the violation to which the notice is addressed will constitute a rent impairing violation in the event the lead hazardous condition remains uncorrected for more than six months.

B. If a violation is not cancelled or removed of record within six months after the date of such notice of such violation, then for the period that such violation remains uncorrected after the expiration of said six months, no rent shall be recovered by any owner for any premises in such multiple dwelling used by a resident thereof for human habitation in which the condition constituting such rent impairing violation exists, provided, however, that if the violation is one that requires approval of plans by the department for the corrective work and if plans for such corrective work shall have been duly filed within three months from the date of notice of such violation by the Department to the owner last registered with the Department, the six-months period aforementioned shall not begin to run until the date that plans for the corrective work are approved by the department; if plans are not filed within said three-months period or if so filed, they are disapproved and amendments are not duly filed within thirty days after the date of notification of the disapproval by the Department to the person having filed the plans, the six-months period shall be computed as if no plans whatever had been filed.

C. A court in considering whether a violation of this Chapter is to be treated as a rent-impairing violation, shall take into consideration, weather and other conditions, which may mitigate against the ability of the property owner to control the lead hazardous condition.

D. If a condition constituting a rent impairing violation exists in the part of a multiple dwelling used in common by the residents or in the part under the control of the owner thereof, the violation shall be deemed to exist in the respective premises of each resident of the multiple dwelling.

E. The provisions of this section shall not apply if (i) the condition referred to in the Department's notice to the owner last registered with the department did not in fact exist, notwithstanding the notation thereof in the records of the Department; (ii) the condition which is the subject of the violation has in fact been corrected, though the note thereof in the department has not been removed or cancelled; (iii) the violation has been caused by the resident from whom rent is sought to be collected or by members of his family or by his guests or by another resident of the multiple dwelling or the members of the family of such other resident or by his guests, or (iv) the resident proceeded against for rent has refused entry to the owner for the purpose of correcting the condition giving rise to the violation.

F. To raise a defense under this section in any action to recover rent or in any special proceeding for the recovery of possession because of non-payment of rent, the resident must affirmatively plead and prove the material facts under this section, and must also deposit with the clerk of the court in which the action or proceeding is pending at the time of filing of the resident's answer the amount of rent sought to be recovered in the action or upon which the proceeding to recover possession is based, to be held by the clerk of the court until final disposition of the action or proceeding at which time the rent deposited shall be paid to the owner, if the owner prevails, or be returned to the resident if the resident prevails. Such deposit of rent shall vitiate any right on

the part of the owner to terminate the lease or rental agreement of the resident because of nonpayment of rent.

G. Nothing in this section shall in any way affect the right of a tenant to proceed with rights secured under any other federal, state, or local law.

§ 60- 405. Notice to Tenants of Right to Have Premises Free of Conditions That Are Detrimental to Health and Safety.

A. With respect to lead hazardous conditions in all rental properties for which the City has sent the owner a notice of violation, the Department shall notify tenants residing in such properties of that the owner has been cited for such violations, and shall include with that notification the information that the tenant may be entitled to assert protections afforded by the state Real Property Law § 235-b, (the state Warranty of Habitability law) with respect to such violations, and shall be notified of the possibility that the violation may become a rent-impairing violation if it remains uncorrected for more than six months, and of the procedural right to request a stay of any eviction proceeding based upon non-payment of rent as provided for in Real Property Actions and Proceedings Law § 755.

B. The notification sent to the tenant pursuant to paragraph A shall additionally advise the tenant that legal assistance that may be available to assert the protections afforded by the laws described therein. The notice to tenants shall include then name of any law office that has identified itself as a provider of such free legal services, and shall include the contact information provided by that office.

§ 60- 406. Documentation of Conditions.

A. To further fair and expeditious judicial enforcement of the rights and protections of the City of Rochester's Lead Poisoning Prevention Code and other laws intended to provide protections against lead poisoning, the city shall make available to the City Court (and upon request by a party or by the court itself, to any other court of appropriate jurisdiction), certified records in a format complying with Rule 4518 of the Civil Practice Law and Rules, to establish:

(1) That a complaint has been filed with the city regarding the property within the protections of the anti-retaliation provisions of this Code or the state Real Property Law §223-b, including the date of the complaint, the name of the person or persons who filed the complaint, and the disposition of that complaint.

(2) That the household includes persons who are in receipt of public assistance and that the Department has notified the County of lead-based paint related conditions at the property that it has determined are dangerous, hazardous, or detrimental to life or health to life or health within the meaning of Social Services Law §143-b;

(3) That the property is a multiple dwelling subject to as that term is defined in §60- 404, and that the owner has been sent a notice by the Department that a lead hazardous condition exists that such violation is now deemed to be a designated rent impairing violation under that law, including certification as to the date of the sending of that notice.

(4) That the owner of a rental unit covered by the state Real Property Law §235-b (i.e., any rental unit) has been sent a notice of a lead-based paint related condition existing in the unit that may be dangerous, hazardous, or detrimental to life, health or safety, including the date of the notification, and date of the Department's most recent determination as to whether the condition has yet been corrected.

B. The notice shall state whether or not the Department has been able to ascertain whether the condition to which the notice was addressed was created by a resident or residents of the unit.

§ 60- 407. Right to Vacate.

A. Any resident of a rental dwelling unit in which the Department has notified the residents that there is a lead-based paint condition in the unit or common areas that the Department has determined may be detrimental to life, health or safety, shall have the right to vacate that unit, and if the tenant so chooses, may elect to terminate the lease, provided that condition was not created by a resident of the premises. If the tenant elects to terminate the lease for the unit, he or she shall have no future rent obligation under that rental agreement from the date the tenant vacates the unit.

B. No tenant is required to vacate a unit pursuant to this section, and the exercise of the right to vacate shall not affect any right the resident may have to compel repairs to the unit, or to return to the unit under an existing lease should the tenant choose not to terminate the lease. The Department shall ensure that tenants who have been advised that a condition exists that may be detrimental to their health and safety are additionally advised of the risks associated with remaining on the premises, and shall be provided the EPA educational pamphlets available with respect to lead safety.

§ 60- 408. Private Right of Enforcement of Lead Poisoning Prevention Code.

A. Any person aggrieved by violations of this Chapter, including but not limited to any purchaser (or intended purchaser) of target housing, any tenant (or intended tenant) of target housing, any neighbor of the target housing, or organization whose purposes encompass the enforcement of health and safety laws related to lead-based paint poison prevention, may bring an action or proceeding in a court of competent jurisdiction for damages and for injunctive relief, including specific performance with respect to the requirements of this Chapter. Any person initiating a judicial action or proceeding under this provision who substantially prevails in such action or proceeding, shall be entitled to treble damages, as well as costs and attorneys' fees reasonably expended in prosecuting that action or proceeding.

B. The remedy provided by this section shall be in addition to those provided for under federal law by 42 USC § 3545; by Title X, 42 USC §§ 4852d(b)(3) and (5); and by the Toxic Substances Control Act, 15 USC § 2601.

§ 60- 409. Database of Properties for Which A Rochester Lead Poisoning Prevention Code Certificate Has Been Filed; Voluntary Registry.

A. The Department shall establish and maintain a database identifying all properties for which a Lead Poisoning Prevention Code Certificate is required to be filed under Article 1 of this Chapter, which shall indicate whether or not such Certificate has been filed and the date of filing. In addition, an owner who has voluntarily obtained such a Certificate may have his or her property added to the database.

B. In addition to the database described in Paragraph A, the City shall create and maintain, either directly or by contract, a Voluntary Housing Registry to which shall be added, on request of the owner, the address and contact information for any property for which the owner demonstrates that an EPA certified lead assessor, inspector, or technician affirms that a lead hazard clearance examination has been conducted and that, as of the date of that examination (which shall be provided in the Registry), there were no lead hazards detected.

C. Any owner of a property constructed on or after January 1, 1978 shall be entitled to have the description (address) and contact information for that property included in the Voluntary Housing Registry created in Paragraph B.

D. The databases created to pursuant to this section shall be kept available for "walk-in" inspection by the public and shall be made available on the internet. No person requesting access shall be required to complete a Freedom of Information Request in order to view this database or be required to submit any other forms which might deter access.

[Drafter Note: we have to make sure we get the City Court administrative judge to agree to a mechanism for making these notifications retrievable by the court - such as a computer database that the City will maintain that is accessible by the court in the manner used by the NYC Civil Court.]

Article 5:

Enforcement

[To be added: Provisions to parallel those used for Part 90, but encouraging leniency with respect to first time offenses and taking into consideration the newness of the law and special circumstances related to the expense of compliance, the availability of funding and technical complexities]

Alternative 2

**First Proposed Amendment to Chapter 80: Lead-Based Paint
Poisoning Prevention
Introduced by Mayor Johnson (Introduction #21 of 2005)**

Ordinance No.

Amending Chapter 90 Of The Municipal Code
With Respect To Lead-Based Paint Poisoning
Prevention

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. Chapter 90 of the Municipal Code, Property Conservation Code, is hereby amended by renumbering Article III as Article IV, renumbering Sections 90-45 and 90-46 as Sections 90-70 and 90-71, respectively, and by adding a new Article III thereof to read in its entirety as follows:

Article III. Lead-Based Paint Poisoning Prevention.

§90-50. Policy and intent.

It is the policy of the City of Rochester to help prevent the poisoning of its residents by requiring that the presence of deteriorated lead-based paint in and on pre-1978 residential structures and on pre-1978 non-residential structures be identified and be correctly addressed by reducing and controlling lead-based paint hazards which may be present in order to prevent human exposure to such hazards.

§90-51. Legislative findings.

- A. Lead poisoning poses a serious public health threat to children and adults in the City of Rochester.
- B. Younger children are particularly susceptible to the hazards of lead-based paint since their bodies are still developing. Fetuses are also vulnerable to the effects of lead-based paint because pregnant women can transfer lead to their fetuses, which can result in adverse developmental effects.
- C. Low levels of lead in a fetus or young child can result in reduced intelligence and attention span, learning disabilities, hearing impairment, and behavior problems.
- D. A minute amount of lead can cause elevated blood lead levels resulting in serious and irreversible developmental damage, particularly in children under the age of six years.
- E. Childhood lead poisoning causes enormous societal costs, including medical costs and special education costs.

- F. Exposure to lead hazards from deteriorated lead-based paint is a primary cause of elevated blood lead levels in humans.
- G. Structures built before 1978 are the most likely to contain lead-based paint hazards.
- H. Residential properties are more likely than are non-residential properties to be a source of exposure to lead-based paint hazards by children.
- I. Children living in older, poorly maintained homes are disproportionately at risk for lead-based paint hazards.
- J. The exposure to lead-based paint hazards in the City of Rochester is most common, and presents the most serious risk, to young children residing in rental housing built before 1978.
- K. It is essential to the overall public health of persons in the City of Rochester, and particularly for children younger than six years of age, that they be protected from exposure to lead-based paint hazards.

§90-52. Definitions.

ABATEMENT means any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards (see definition of "PERMANENT"). Abatement includes: (1) The removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards; and (2) All preparation, cleanup, disposal, and post abatement clearance testing activities associated with such measures.

CERTIFIED means licensed or certified to perform such activities as risk assessment, lead-based paint inspection, or abatement supervision by the United States Environmental Protection Agency (EPA) in accordance with 40 CFR Part 745, Subpart L.

CERTIFIED LEAD-BASED PAINT INSPECTOR means an individual who has been trained by an accredited training program, as defined by 40 CFR §745.223, and certified by EPA pursuant to 40 CFR §745.226 to conduct lead-based paint inspections. A certified lead-based paint inspector also samples for the presence of lead in dust and soil for the purposes of clearance testing.

CERTIFIED RISK ASSESSOR means an individual who has been trained by an accredited training program, as defined by 40 CFR §745.223, and certified by EPA pursuant to 40 CFR §745.226 to conduct risk assessments. A certified risk

assessor also samples for the presence of lead in dust and soil for the purposes of clearance testing.

CHEWABLE SURFACE means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. A chewable surface is the same as an "accessible surface" as defined in 42 U.S.C. 4851b(2). Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

CLEARANCE EXAMINATION means an activity conducted following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and that no soil-lead hazards or settled dust-lead hazards, as defined in this Article, exist in the dwelling unit or worksite.

COMMON AREA means a portion of a residential property that is available for use by occupants of more than one dwelling unit. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, on-site day care facilities, porches, basements, attics, garages and boundary fences.

COMPONENT means an architectural element of a dwelling unit or common area identified by type and location, such as a bedroom wall, an exterior window sill, a baseboard in a living room, a kitchen floor, an interior window sill in a bathroom, a porch floor, stair treads in a common stairwell, or an exterior wall.

CONTAINMENT means the physical measures taken to ensure that dust and debris created or released during lead-based paint hazard reduction are not spread, blown or tracked from inside to outside of the worksite.

DETERIORATED PAINT means any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

DRY SANDING means sanding without moisture and includes both hand and machine sanding.

DUST-LEAD HAZARD means surface dust that contains a dust-lead loading (area concentration of lead) at or exceeding the levels promulgated by the EPA pursuant to section 403 of the Toxic Substances Control Act.

DWELLING UNIT means a: (1) Single-family dwelling, including attached structures such as porches and stoops; or (2) Housing unit in a structure that contains more than 1 separate housing unit, and in which each such unit is used

or occupied, or intended to be used or occupied, in whole or in part, as the home or separate living quarters of 1 or more persons.

ENCAPSULATION means the application of a covering or coating that acts as a barrier between the lead-based paint and the environment and that relies for its durability on adhesion between the encapsulant and the painted surface, and on the integrity of the existing bonds between paint layers and between the paint and the substrate. Encapsulation may be used as a method of abatement if it is designed and performed so as to be permanent (see definition of "PERMANENT").

ENCLOSURE means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment. Enclosure may be used as a method of abatement if it is designed to be permanent (see definition of "PERMANENT").

EVALUATION means a risk assessment, a lead hazard screen, a lead-based paint inspection, paint testing, or a combination of these to determine the presence of lead-based paint hazards or lead-based paint.

FRICTION SURFACE means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain window, floor, and stair surfaces.

g means gram, mg means milligram (thousandth of a gram), and ug means microgram (millionth of a gram).

HAZARD REDUCTION means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of the two.

HEPA VACUUM means a vacuum cleaner device with an included high-efficiency particulate air (HEPA) filter through which the contaminated air flows, operated in accordance with the instructions of its manufacturer. A HEPA filter is one that captures at least 99.97 percent of airborne particles of at least 0.3 micrometers in diameter.

IMPACT SURFACE means an interior or exterior surface that is subject to damage by repeated sudden force, such as certain parts of door frames.

INTERIM CONTROLS means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident

education programs.

LEAD-BASED PAINT means paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.

LEAD-BASED PAINT HAZARD means any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.

LEAD-BASED PAINT INSPECTION means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

LEAD HAZARD INFORMATION PAMPHLET means the most recent publication of the LEAD HAZARD INFORMATION PAMPHLET means the pamphlet developed by the EPA, the United States Department of Housing and Urban Development and the Consumer Product Safety Commission pursuant to Section 403 of the Toxic Substances Control Act (15 U.S.C. 2686), entitled "Protect Your Family From Lead in Your Home."

OCCUPANT means a person who inhabits a dwelling unit.

OWNER means a person, firm, corporation, nonprofit organization, partnership, government, guardian, conservator, receiver, trustee, executor, or other judicial officer, or other entity which, alone or with others, owns, holds, or controls the freehold or leasehold title or part of the title to property, with or without actually possessing it. The definition includes a vendee who possesses the title, but does not include a mortgagee or an owner of a reversionary interest under a ground rent lease.

PAINT STABILIZATION means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.

PAINT TESTING means the process of determining, by a certified lead-based paint inspector or risk assessor, the presence or the absence of lead-based paint on deteriorated paint surfaces or painted surfaces to be disturbed or replaced.

PAINT REMOVAL means a method of abatement that permanently eliminates lead-based paint from surfaces.

PAINTED SURFACE TO BE DISTURBED means a paint surface that is to be scraped, sanded, cut, penetrated or otherwise affected by rehabilitation work in a manner that could potentially create a lead-based paint hazard by generating dust, fumes, or paint chips.

PERMANENT means an expected design life of at least 20 years.

REDUCTION means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

REHABILITATION means the improvement of an existing structure through alterations, incidental additions or enhancements. Rehabilitation includes repairs necessary to correct the results of deferred maintenance, the replacement of principal fixtures and components, improvements to increase the efficient use of energy, and installation of security devices.

REPLACEMENT means a strategy of abatement that entails the removal of building components that have surfaces coated with lead-based paint and the installation of new components free of lead-based paint.

RESIDENTIAL PROPERTY means a dwelling unit, common areas, building exterior surfaces, and any surrounding land, including outbuildings, fences and play equipment affixed to the land, belonging to an owner and available for use by residents, but not including land used for agricultural, commercial, industrial or other non-residential purposes, and not including paint on the pavement of parking lots, garages, or roadways.

RISK ASSESSMENT means: (1) An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and (2) The provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards.

SOIL-LEAD HAZARD means bare soil on residential property that contains lead equal to or exceeding levels promulgated by the U.S. Environmental Protection Agency pursuant to section 403 of the Toxic Substances Control Act.

TENANT means the individual named as the lessee in a lease, rental agreement or occupancy agreement for a dwelling unit.

VISUAL ASSESSMENT means a visual examination for, as applicable: (1) Deteriorated paint; (2) Visible surface dust, debris and residue as part of an inspection, a risk assessment or clearance examination; or (3) The completion or failure of a lead-based paint hazard reduction measure.

WET SANDING or WET SCRAPING means a process of removing loose paint in which the painted surface to be sanded or scraped is kept wet to minimize the dispersal of paint chips and airborne dust.

WINDOW TROUGH means the area between the interior window sill (stool) and the storm window frame. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered.

WIPE SAMPLE means a sample collected by wiping a representative surface of known area, as determined by ASTM E1728, "Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques," or equivalent method, with an acceptable wipe material as defined in ASTM E 1792, "Standard Specification for Wipe Sampling Materials for Lead in Surface Dust."

WORKSITE means an interior or exterior area where lead-based paint hazard reduction activity takes place. There may be more than one worksite in a dwelling unit or at a residential property.

§90-53. Presumption.

- A. For purposes of this article, all paint on the interior or exterior of any residential building on which the original construction was completed prior to January 1, 1978 shall be presumed to be lead-based.
- B. For purposes of this article, all paint on the exterior of any non-residential structure on which the original construction was completed prior to January 1, 1978 shall be presumed to be lead-based.
- C. Any person seeking to rebut these presumptions shall establish through the means set forth in Section 90-55 that the paint on the building or structure in question is not lead-based paint.

§90-54. Inspection for deteriorated paint.

All inspections performed as part of an application for a Certificate of Occupancy, pursuant to Section 90-16 of the City Code, a renewal of a Certificate of Occupancy, or based upon the filing of a complaint, shall include an inspection for deteriorated paint.

§90-55. Remedy for deteriorated paint.

Following an inspection which results in the detection of deteriorated paint, the

condition may be corrected only by one of the following methods:

- A. Certification by a lead-based paint inspector or risk assessor that the property has been determined through a lead-based paint inspection conducted in accordance with the federal regulations at 24 CFR §35.1320(a) not to contain lead-based paint, provided, however, that the property has been inspected pursuant to those requirements.
- B. Certification by a lead-based paint inspector or risk assessor that all lead-based paint in the property has been identified, removed, and clearance has been achieved in accordance with federal regulations found at 24 CFR §§35.1320, 35.1325 and 35.1340, provided however that the property has been inspected pursuant to those requirements since the deteriorated paint was last detected.
- C. Certification by the Rochester Housing Authority or other state or federal supervising agency which regulates an assisted housing program stating that the property is in compliance with the inspection and clearance requirements of the housing program or, with respect to federally assisted housing, the requirements of 24 CFR Part 35, provided, however, that with respect to the Federal Housing Choice Voucher program, the property has been inspected pursuant to those requirements since the deteriorated paint was last detected.
- D. Certification by a risk assessor that: (1) all lead-based paint and hazards in the property have been identified; (2) all lead-based paint hazards have been reduced and controlled; and (3) that clearance has been achieved, in accordance with federal regulations found at 24 CFR §§35.1320, 35.1330 and 35.1340; provided, however, that the property has been inspected pursuant to those requirements since the deteriorated paint was last detected.

§90-56. Standards for clearance examination and report.

The remedy available through Section 90-55D shall require that a clearance examination be completed for a property upon which deteriorated paint has been detected in accordance with the following requirements:

- A. Qualified personnel. Certification of clearance shall be issued by:
 - (1) A certified risk assessor; or
 - (2) A certified lead-based paint inspector.
- B. Required activities.

- (1) For Certificate of Occupancy inspections, a clearance examination shall include a visual assessment, dust sampling, submission of samples for analysis for lead, interpretation of sampling results, and preparation of a report. Examinations shall be performed in dwelling units, common areas and exterior areas in accordance with this section and the steps set forth at 40 CFR 745.227(e)(8) and (9). For complaint driven inspections, the dwelling unit or common area complained of shall be inspected.
- (2) A visual assessment shall be performed to determine if deteriorated paint surfaces and/or visible amounts of dust, debris, paint chips or other residue are present. Both exterior and interior painted surfaces shall be examined for the presence of deteriorated paint. If deteriorated paint and visible dust, debris or residue are present in areas subject to dust sampling, they must be eliminated prior to the continuation of the clearance examination. If exterior painted surfaces have been disturbed by the hazard reduction, maintenance or rehabilitation activity, the visual assessment shall include an inspection of the ground and any outdoor living areas close to the affected exterior painted surfaces. Visible dust or debris in such outdoor living areas shall be cleaned up and visible paint chips on the ground shall be removed.
- (3) Dust samples shall be wipe samples and shall be taken on floors, including porches, and, where practicable, interior windowsills and window troughs. Dust samples shall be collected and analyzed in accordance with 24 CFR §35.1315.

C. Report.

The clearance examiner shall ensure that an examination report is prepared that provides documentation of the examination.

- (1) The report shall include the following information:
 - (a) The address of the residential property and, if only part of a multi-family property is affected, the specific dwelling units and common areas affected.
 - (b) The date(s) of the examination;
 - (c) The name, address, and signature of each person performing the examination, including their EPA certification number;

- (d) The results of the visual assessment for the presence of deteriorated paint and visible dust, debris, residue or paint chips;
 - (e) The results of the analysis of dust samples, in ug/sq.ft., by location of sample; and
 - (f) The name and address of each laboratory that conducted the analysis of the dust samples, including the identification number for each such laboratory recognized by EPA under section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b)).
- (2) When abatement is performed, the report shall be an abatement report in accordance with 40 CFR §745.227(e)(10).

D. Clearance standards.

Where a lead-based paint hazard has been identified, the dust-lead standards in 40 CFR §745.65(b) shall be met before a Certificate of Occupancy may be issued or a violation cleared. With respect to porches, the standard required for clearance shall be 400 ug/sq. ft., provided however, that if a porch is found to contain more than 40 ug/sq. ft., the inspector or assessor shall advise the occupants of the premises that the porch constitutes a potential lead-based paint hazard that requires continued caution and that the occupants should read and follow closely the information in the lead hazard information pamphlet regarding lead safe maintenance practices such as frequent washing, and that pamphlet shall be provided to the occupants.

E. Requirement to avoid conflict of interest regarding clearance inspection.

All examinations shall be performed by persons or entities independent of those performing hazard reduction or maintenance activities.

§90-57. Lead-safe hazard reduction and control.

- A. No person shall disturb or remove lead-based paint, or in any other way generate excessive dust or debris during work on the interior or exterior of any existing building or structure except in accordance with the requirements of this Section and Sections 90-58 and 90-59.
- B. Exemptions.
This Section shall not apply to activities that disturb or remove paint where

the activities are being performed on buildings on which construction was completed on or after January 1, 1978.

C. Sign required when exterior lead-based paint (or presumed lead-based paint) is disturbed:

- (1) Not later than the commencement date of any lead-based paint hazard reduction work, the owner, or the contractor when the owner has entered into a contract with a contractor to perform such work on the exterior of a building or structure, shall post signs in a location or locations clearly visible to the adjacent properties stating the following:

LEAD-BASED PAINT HAZARD REDUCTION WORK IN PROGRESS

PUBLIC ACCESS TO
WORK AREA
PROHIBITED

POSTED IN ACCORDANCE WITH CHAPTER 90
OF THE CITY OF ROCHESTER CODE

FOR FURTHER INFORMATION, PHONE -----

- (2) The sign required by this subsection shall be not less than 24 inches square and shall be in large boldface capital letters no less than one-half inch in size, and shall contain the notification in both English and Spanish. The sign required by this subsection shall remain in place until the lead-based paint hazard reduction work has been completed.
- (3) Where it is not possible to post signs in a conspicuous location or locations clearly visible to the adjacent properties, the owner, or where the owner has entered into a contract with a contractor to perform lead-based paint hazard reduction work, the contractor shall provide the notice in written form, such as a letter or memorandum, to the occupants of adjacent properties.

E. Notice to tenants.

Where lead-based paint hazard reduction work is to be performed on the interior or exterior of buildings occupied by one or more tenants, not less than three business days before any lead-based paint hazard reduction work is to commence, the owner shall provide the following information:

(1) Contents of notice.

Provide written notice to tenants of the building on which the work is being performed that lead-based paint hazard reduction work is being performed. This notice, which shall be in both English and Spanish, shall be in compliance with the EPA pre-renovation notification rules set forth in 40 CFR Part 745, Subpart E, shall be in the form of a sign, letter or memorandum, and shall prominently state the following:

Work is scheduled to be performed beginning [date] on this property that may disturb or remove lead-based paint. The persons performing this work are required to follow federal and local laws regulating work with lead-based paint. You may obtain information regarding these laws, or report any suspected violations of these laws, by calling the City of Rochester at _____ (a number to be designated by the City). The owner of this property is also required to provide tenants with a copy of the lead hazard information pamphlet.

(2) The owner shall provide all tenants in the building with a copy of the lead hazard information pamphlet.

F. Notice by contractor.

Where lead-based paint hazard reduction work is being performed by a contractor on residential property, the contractor shall at least three business days prior to the commencement of such work, notify the property owner of potential lead hazards during the project by delivering to the owner a copy of the lead hazard information pamphlet.

G. Early commencement of work by owner.

A property owner may commence, or may authorize a contractor to commence, lead-based paint hazard reduction work less than three business days after providing notices required above when such work must be commenced immediately to correct an emergency condition, such as work necessitated by non-routine failures of equipment, that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage.

H. Early commencement of work requested by tenant.

Upon written request of a tenant, an owner may commence or authorize a contractor to commence, lead-based paint hazard reduction work on that tenant's unit less than three business days after providing notices required in subsection E above.

§90-58. Occupant protection and worksite preparation.

A. Occupant protection.

- (1) Occupants shall not be permitted to enter the worksite during hazard reduction activities (unless they are employed in the conduct of these activities at the worksite) until after hazard reduction work has been completed and clearance has been achieved.
- (2) Occupants shall be temporarily relocated before and during hazard reduction activities, except if:
 - (a) Treatment will not disturb lead-based paint, dust-lead hazards or soil-lead hazards;
 - (b) Only the exterior of the dwelling unit is treated, and windows, doors, ventilation intakes and other openings in or near the worksite are sealed during hazard control work and cleaned afterward, and entry free of dust-lead hazards, soil-lead hazards and debris is provided;
 - (c) Treatment of the interior will be completed within one period of 8-daytime hours, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards (e.g., exposed live electrical wiring, release of toxic fumes, or on-site disposal of hazardous waste); or
 - (d) Treatment of the interior will be completed within 5 calendar days, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, treatment does not create other safety, health or environmental hazards; and, at the end of work on each day, the worksite and the area within at least 10 feet of the containment area is cleaned to remove any visible dust or debris, and occupants have safe

daily access to sleeping areas, and bathroom and kitchen facilities.

- (3) The dwelling unit and the worksite shall be secured against unauthorized entry, and occupants' belongings protected from contamination by dust-lead hazards and debris during hazard reduction activities. Occupants' belongings in the containment area shall be relocated to a safe and secure area outside the containment area, or covered with an impermeable covering with all seams and edges taped or otherwise sealed.

B. Worksite preparation.

- (1) The worksite shall be prepared, including the placement of containment barriers, to prevent the release of leaded dust, and contain lead-based paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed. Practices that minimize the spread of leaded dust, paint chips, soil and debris shall be used during worksite preparation.
- (2) A warning sign shall be posted at each entry to a room where hazard reduction activities are conducted when occupants are present; or at each main and secondary entryway to a building from which occupants have been relocated. Each warning sign shall be as described in 29 CFR §1926.62(m), except that it shall be posted irrespective of employees' lead exposure and, to the extent practicable, provided in the occupants' primary language.

§90-59. Safe work practices.

A. Lead-based paint shall not be applied to any exterior or interior surface.

B. Prohibited methods.

The following methods of paint removal listed in 24 CFR §35.140 shall not be used:

- (1) Open flame burning or torching.
- (2) Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.
- (3) Abrasive blasting or sandblasting without HEPA local exhaust control.

- (4) Heat guns operating above 1100 degrees Fahrenheit or charring the paint.
- (5) Dry sanding or dry scraping, except dry scraping in conjunction with heat guns or within 1.0 foot of electrical outlets, or when treating defective paint spots totaling no more than 2 square feet in any one interior room or space, or totaling no more than 20 square feet on exterior surfaces.
- (6) Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the Consumer Product Safety Commission at 16 CFR §1500.3, and/or a hazardous chemical in accordance with the Occupational Safety and Health Administration regulations at 29 CFR §§1910.1200 or 1926.59, as applicable to the work.

C. Worksite preparation.

The worksite shall be prepared in accordance with Section 90-58B.

D. Specialized cleaning.

After hazard reduction activities have been completed, the worksite shall be cleaned using cleaning methods, products and devices that are successful in cleaning up dust-lead hazards, such as a HEPA vacuum or other method of equivalent efficacy, and lead-specific detergents or equivalent.

E. *De minimis* levels.

Safe work practices are not required when maintenance or hazard reduction activities do not disturb painted surfaces that total more than:

- (1) 20 square feet on exterior surfaces;
- (2) 2 square feet in any one interior room or space; or
- (3) 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include windowsills, baseboards, and trim.

§90-60. Emergency actions, weather conditions.

A. For emergency actions necessary to safeguard against imminent or

immediate danger to human life, health or safety, or to protect property from further structural damage, including demolitions ordered pursuant to Sections 47A-16B & C of the Municipal Code, occupants shall be protected from exposure to lead in dust and debris generated by such emergency actions to the extent practicable. This exemption does not apply to any work undertaken subsequent to, or above and beyond such emergency actions, other than the demolitions noted above.

- B. Performance of lead-based paint hazard reduction or lead-based paint abatement on an exterior painted surface as required under this Article may be delayed for a reasonable time during a period when weather conditions render impossible the completion of conventional construction activities, provided however, that this limitation shall continue only for the period in which work cannot be performed in the work safe manner as provided for herein.

§90-61. Exemptions.

This Article shall not apply to properties taken by a governmental entity in a foreclosure proceeding which are vacant and secured and: (1) scheduled for demolition, or (2) scheduled for sale within twelve months.

§90-62. Prohibition of retaliatory action.

- A. It is unlawful for an owner, or any person acting on his or her behalf, to take any retaliatory action toward a tenant who reports a suspected lead-based paint hazard to the owner or to the City. Retaliatory actions include but are not limited to any actions that materially alter the terms of the tenancy (including rent increases and non-renewals) or interfere with the occupants' use of the property.
- B. There shall be a rebuttable presumption that any attempt by the owner to raise rents, curtail services, refuse to renew or attempt to evict a tenant within six months after any report to the City or the owner or any enforcement action in connection with a suspected lead hazard is a retaliatory action in violation of this section, except that in instances of nonpayment of rent or commission of waste upon the premises by the tenant no such presumption shall apply. After six months from the date of the reporting of a suspected lead hazard, or the most recent activity related to any enforcement action, the defense of retaliatory eviction shall remain available to the tenant, but without the benefit of the presumption created by this section.
- C. The provisions of this section shall not be given effect in any case in which

it is established that the condition from which the complaint or action arose was caused by the tenant, a member of the tenant's household, or a guest of the tenant. Nor shall it apply in a case where a tenancy was terminated pursuant to the terms of a lease as a result of a bona fide transfer of ownership.

§90-63. Notification to county of lead-based paint hazards.

The City shall continue to send notices to the County of Monroe listing any health and safety violations found in properties inspected by the City. Any lead-based paint hazards that have been identified shall be included in that list.

§90-64. Database for properties.

- A. The City shall maintain a database, accessible to the public, of all residential properties where lead hazards have been identified, reduced and controlled with funds received by the City from the United States Department of Housing and Urban Development which require that such a database be maintained. The City shall further maintain a database of all residential properties granted a Certificate of Occupancy after the effective date of this ordinance.
- B. The databases created pursuant to this section shall be kept available for "walk-in" inspection by the public. No person requesting access shall be required to complete a Freedom of Information request in order to view this database.

Section 2. Section 90-14 of the Municipal Code, Property maintenance, is hereby amended by repealing subsection A thereof, and by relettering Subsections B and C as Subsections A and B, respectively.

Section 3. This ordinance shall take effect sixty days after the date of its adoption.

Alternative 3

**Second Proposed Amendment to Chapter 90: Lead-Based Paint
Poisoning Prevention
New York State Coalition of Property and Business Owners**

7.1

THE NEW YORK STATE COALITION
OF
PROPERTY OWNERS & BUSINESSES, INC.
1305 DEWEY AVENUE
ROCHESTER, NEW YORK 14613

PROPERTY OWNER PROPOSAL
TO
ELIMINATE
LEAD POISONING
IN
ROCHESTER
BY
2010

RECEIVED
HOUSING & PROJECT DEV.
2005 MAR 23 PM 1:26

INTRODUCTORY NO. ____

Amending Chapter 90 of the Municipal Code With Respect
To Lead-Based Paint Poisoning Prevention

BE IT ORDAINED by the Council of the City of Rochester as follows:

Section 1. Chapter 90 of the Municipal Code, Property Conservation Code, is hereby amended by renumbering Article III as Article IV, renumbering sections 90-45 and 90-46 as sections 90-70 and 90-71, respectively, and by adding a new Article III thereof to read in its entirety as follows:

Article III. Lead-Based Paint Poisoning Prevention.

§ 9-50. Policy and intent.

It is the policy of the City of Rochester to prevent the poisoning of its residents by assisting those residents in identifying the presence of deteriorated lead-based paint in and on both residential and non-residential structures constructed prior to 1978. It is the policy of the City of Rochester to assist its residents in correctly addressing these hazards by reducing and controlling lead-based paint hazards that may be present in order to minimize or prevent human exposure to such hazards.

§ 90- 51. Legislative Findings.

- A. Lead poisoning may pose a serious health threat to children and adults in the City of Rochester.
- B. Younger children are particularly susceptible to the hazards of lead-based paint since their nervous systems are still developing. Fetuses may also be vulnerable to the effects of lead-based paint because pregnant women can transfer lead to their fetuses, which can result in adverse developmental effects.
- C. Minute amounts of lead can cause elevated blood lead levels, which may result in serious and irreversible developmental damage, reduced intelligence and attention span, learning disabilities, hearing impairment, and behavioral problems, particularly in children under the age of six years.
- D. Childhood lead poisoning may cause societal costs, including medical costs and special education costs.
- E. Exposure to lead hazards from deteriorated lead-based paint is a primary cause of elevated blood lead levels in humans, particularly in children under the age of six years.
- F. Structures built before 1978 are the most likely to contain lead-based paint hazards.

- G. The most likely sources of exposure of to lead-based paint hazards in children are the residential properties in which those children reside.
- H. Children living in older, poorly maintained homes are at the highest risk for lead-based paint hazards.
- I. Improper removal of lead-based paint may increase the severity of lead-based paint hazards. Performing hazard reduction activities during a period when a property is vacant can minimize these increased hazards, minimize the economic cost of the hazard reduction activities and minimize any encroachments on the privacy of city residents.
- J. Children are not likely to be at risk of for lead poisoning from surfaces and components that do not contain lead.
- K. It is essential to the overall public health of persons in the City of Rochester, and particularly for children younger than six years of age, that they be protected from exposure to lead-based paint hazards.
- L. The education of Rochester residents regarding the hazards of lead poisoning and lead safe work practices to make structures lead-safe is essential to the health of children in the city of Rochester.
- M. It is essential that public funding and assistance be provided to detect and remedy lead-based paint hazards in order to preserve the health of Rochester residents, as well as the value of properties in the City of Rochester.

§ 90-52. Definitions.

ABATEMENT means any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards (see definition of "PERMANENT"). Abatement includes: (1) The removal of lead-based paint and lead dust hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards; and (2) All preparation, cleanup, disposal, and post abatement clearance testing activities associated with such measures.

CERTIFIED LEAD-BASED PAINT INSPECTOR means an individual who has been trained by an accredited training program, as defined by 40 CFR §745.223, and certified by EPA pursuant to 40 CFR §745.226 to conduct lead-based paint inspections. A certified lead-based paint inspector may also sample for the presence of lead in dust and soil for the purposes of clearance testing.

CERTIFIED RISK ASSESSOR means an individual who has been trained by an accredited training program, as defined by 40 CFR §745.223, and certified by EPA pursuant to 40 CFR §745.226 to conduct risk assessments. A certified risk assessor also samples for the presence of lead in dust and soil for the purposes of clearance testing.

CHEWABLE SURFACE means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable. Chewable surfaces are not considered a lead paint hazard unless there is evidence that a child of less than six years of age has chewed on the painted surface.

CLEARANCE EXAMINATION means an activity conducted following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and that no settled lead-dust hazards, or soil-lead hazards, as applicable, exist in the work site.

COMMON AREA means a portion of a residential property that is available for use by occupants of more than one dwelling unit. Such area may include, but is not limited to, hallways, stairways, laundry and recreation rooms, playgrounds, community centers, on-site day care facilities, porches, basements, attics, garages, and boundary fences.

COMPONENT means an architectural element of a dwelling unit or common area identified by type and location, such as a bedroom wall, an exterior or interior window sill, a baseboard, a kitchen floor, a porch floor, stair treads in a common stairwell, or an exterior wall.

CONTAINMENT means the physical measures taken to ensure that dust and debris created or released during lead-based paint hazard reduction are not spread, blown, or tracked from inside to outside of the work site.

DETERIORATED PAINT means any paint or coating located on an interior or exterior surface or fixture that is peeling, chipping, or separated from the substrate.

DRY SANDING means sanding without moisture and includes both hand and machine sanding.

DWELLING UNIT means: (1) An occupied single-family dwelling, including attached structures such as porches and stoops; or (2) a housing unit within a structure that contains more than one separate housing unit, and in which each such unit is used or occupied, in whole or in part, as the home or separate living quarters of one or more persons.

ENCAPSULATION means the application of a covering or coating that acts as a barrier between the lead-based paint and the environment and that relies for its durability on adhesion between the encapsulant and the painted surface, and on the integrity of the existing bonds between paint layers and between the paint and the substrate. Encapsulation may be used as a method of abatement if it is designed and performed so as to be permanent (see definition of "PERMANENT").

ENCLOSURE means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment. Enclosure may be used as a method of abatement if it is designed to be permanent (see definition of "PERMANENT").

FRICION SURFACE means an interior or exterior surface that is subject to abrasion or friction including, but not limited to, certain window, floor, and stair surfaces.

"g" means "gram", mg" means "milligram" (thousandth of a gram), and "ug" means "microgram" (millionth of a gram).

HAZARD REDUCTION means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of the two.

HEPA VACUUM means a vacuum cleaner device with an included high efficiency particulate air (HEPA) filter through which the contaminated air flows, operated in accordance with the instructions of its manufacturer. A HEPA filter is one that captures at least 99.97 per cent of airborne particles at least 0.3 micrometers in diameter.

IMPACT SURFACE means an interior or exterior surface that is subject to damage by repeated sudden force, such as certain parts of door frames.

INTERIM CONTROLS means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.

LEAD-BASED PAINT means paint or other surface coatings that contain lead equal to or exceeding 0.5 per cent by weight.

LEAD-BASED PAINT HAZARD means any condition that causes exposure to lead from lead dust hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces and that would result in adverse human health effects.

LEAD-BASED PAINT INSPECTION means an investigation to determine the presence of lead-based paint hazards and the provision of a report explaining the results of the investigation.

LEAD DUST HAZARD means surface dust that contains a lead dust loading (area concentration of lead) at or exceeding the levels specified in § 90-57C.

LEAD HAZARD INFORMATION PAMPHLET means the publication developed by the EPA, the United States Department of Housing and Urban Development and the Consumer Product Safety Commission pursuant to section 403 of the Toxic Substances Control Act (15 U.S.C. 2686), entitled "Protect Your Family From Lead in Your Home".

OCCUPANT means a person occupying a dwelling unit.

OWNER means a person, firm, corporation, nonprofit organization, partnership, government, guardian, conservator, receiver, trustee, executor, or other judicial officer,

or other entity which, alone or with others, owns, holds, or controls the freehold or leasehold title or part of the title to property, with or without actually possessing it. The definition includes a vendee who possesses the title, but does not include a mortgagee or an owner of a reversionary interest under a ground rent lease.

PAINT REMOVAL means a method of abatement that permanently eliminates lead-based paint from surfaces.

PERMANENT means having an expected design life of at least twenty years.

REHABILITATION means the improvement of an existing structure through alterations, incidental additions or enhancements. Rehabilitation includes repairs necessary to correct the results of deferred maintenance, the replacement of principle fixtures and components, and installation of security devices.

REPLACEMENT means a strategy of abatement that entails the removal of building components that have surfaces coated with lead-based paint and the installation of new components free of lead-based paint.

RESIDENTIAL PROPERTY means a dwelling unit, common areas, building exterior surfaces, and any surrounding land, including outbuildings, fences and play equipment affixed to the land, but not including land used for agricultural, commercial, industrial, or other non-residential purposes. Residential property shall, without limiting the foregoing, include emergency shelters, child care facilities for children under six years of age, kindergartens and nursery schools, but shall not include paint on the pavement of parking lots, garages, or roadways.

RISK ASSESSMENT means: (1) An on-site investigation to determine the existence, nature, severity and location of lead-based paint hazards; and (2) The provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards.

SOIL-LEAD HAZARD means: (1) bare soil that contains lead equal to or exceeding 400 ug per gram in a play area frequented by children under six years of age or (2) an area of bare soil greater than nine square feet on a residential property that contains lead equal to or exceeding 2000 ug per gram.

TENANT means the individual named as the lessee in a lease, rental agreement or occupancy agreement for a dwelling unit.

VISUAL ASSESSMENT means a visual examination for, as applicable: (1) Deteriorated paint; or (2) Visible surface dust, debris, and residue as part of an inspection, a risk assessment or clearance examination.

WET SANDING or WET SCRAPING means a process of removing loose paint in which the painted surface to be sanded or scraped is kept wet to minimize the dispersal of paint chips and airborne dust.

WINDOW TROUGH means the area between the interior windowsill and the storm window frame. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered.

WIPE SAMPLE means a sample collected by wiping a representative surface of known area, as determined by ASTM E1728, "Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques", or an equivalent method, for an acceptable wipe material as defined in ASTM E 1792, "Standard Specification for Wipe Sampling Materials for Lead in Surface Dust".

WORK SITE means an interior or exterior area where lead-based paint hazard reduction activity takes place. There may be more than one work site in a dwelling unit or at a residential property.

XRF DEVICE means an x-ray fluorescence spectrum analyzer system used for the quantitative measurement of lead in painted surfaces.

§ 90-53. Presumption.

- A. For purposes of this Article, all paint on the interior and exterior of any building on which the original construction was completed prior to January 1, 1978 shall be presumed to be lead-based.
- B. Any person seeking to rebut this presumption may establish through the means set forth in section 90-55 that the paint on the surface in question is not lead-based paint. In the alternative, the presumption may be rebutted by a sworn statement by any person with personal knowledge that construction of the relevant component was completed after January 1, 1978.
- C. The presumption created by this section may also be rebutted through the results of lead-based paint inspection by a lead-based paint inspector using an XRF device or other acceptable method, showing that the surface in question does not contain lead-based paint. The City shall provide and pay for such evaluations upon request of an owner in any case where this presumption is invoked, and shall provide a copy of the lead-based paint inspection report to the owner. The report shall also be made a part of the database established under § 90-65. The property owner must provide a copy of the lead-based inspection report to current and future tenants of the home.
- D. § 90-50 through §90-64 of this Article shall not apply to any surface that does not contain lead-based paint. Where the presumption created by this section has been rebutted, any Notice and Order requiring the correction of a lead-based paint hazard shall be amended to distinguish between non-lead surfaces that require repair or protective covering and those surfaces that are subject to lead hazard regulations.

§ 90-54. Inspections.

The Commissioner shall provide and pay for inspections to reduce the risks of lead poisoning as follows;

- A. All inspections performed in conjunction with an application for a certificate of occupancy required by § 90-16 of the City Code shall include a visual assessment of both interior and exterior surfaces for deteriorated paint or evidence of paint chips. Additionally, the property shall be inspected for the presence of bare soil. Where no such conditions are observed, the certificate of occupancy shall indicate that the building or dwelling unit has passed a visual assessment.
- B. Following a visual inspection that results in the detection of lead-based paint hazards that exceeds the de minimus levels as stated in 90-60(e), the Commissioner shall require that repairs to these surfaces be corrected. Upon completion of corrected repairs the Commissioner shall provide another visual assessment to see if the deteriorated lead-based paint hazard has been corrected. Once the unit passes the visual inspection, where a child under the age of six years resides in the dwelling unit, a dwelling unit that is either for rent or for sale, and are available to families with children under the age of six dust wipe screening shall be performed only on interior surfaces as follows: One wipe sample shall be taken from one interior window sill or from one window trough and one wipe sample shall be taken from the floors of each of no less than four rooms, hallways or stairwells in the dwelling unit. If there are less than four rooms, hallways or stairwells within the dwelling unit, then all rooms, hallways or stairwells within the dwelling unit shall be sampled. Where the results of the inspection satisfy the requirements of § 90-56A, a clearance report shall be issued and a copy provided to the property owner.
- C. The Commissioner shall provide and pay for a lead-based paint inspection of any structure or premises in the City upon the request of the owner or occupant, in response to a bona fide complaint related to deteriorated paint, or as a part of any other required inspection of such structure or premises in accordance with 90-54A and 90-54B. For complaint driven inspections, the area of the dwelling unit or common area complained of shall be inspected. The Commissioner shall also provide for lead-based paint inspections upon request of an owner or occupant, to determine whether specific components contain lead-based paint. Such inspections shall utilize an XRF device or suitable alternative.
- D. Where an inspection demonstrates that clearance has been achieved as required by section 90-56, the inspector shall issue a clearance report. Copies of this report shall be provided to the Department, the occupant(s), and the owner.
- E. As part of any inspection, the occupants of the property shall be provided with a lead hazard information pamphlet.

§ 90-55 Remedy for deteriorated lead-based paint.

Following an inspection pursuant to § 90-54 which results in the detection of deteriorated paint which is lead-based, or presumed lead-based, that exceeds the de minimus level as stated in 90-60(E), in a dwelling unit that is either occupied by a child under the age of 6, or is for rent or sale, the inspector may issue a Notice and Order requiring the correction of such condition a reasonable specified period. Acceptable corrections shall include interim controls, paint removal, encapsulation, or replacement.

The Commissioner shall not provide any inspection as provided under § 90-54B or 90-54C until a visual assessment establishes that the deteriorated paint has been corrected as required by this section, unless the deteriorated paint is determined not to be lead-based.

§ 90-56. Remedy for lead-based paint hazards.

- A. Following a lead-based paint inspection that results in the detection of a lead-based paint hazard, the Commissioner shall recommend hazard reduction activities to correct the hazard. Upon implementation of hazard reduction activities, the Commissioner shall provide and pay for a clearance examination by a certified lead-based paint inspector or risk assessor at the request of the owner. A clearance report may be issued upon any of the following events:
1. Certification by a certified lead-based paint inspector or risk assessor that the property has been determined through a lead-based paint inspection not to contain lead-based paint.
 2. Certification by a certified lead-based paint inspector or risk assessor that all lead-based paint has been identified, removed, and clearance has been achieved in accordance with § 90-57.
 3. Certification by the Rochester Housing Authority or other State or Federal supervising agency that regulates an assisted housing program stating that the property is in compliance with the inspection and clearance requirements of the housing program or, with respect to federally assisted housing, the requirements of 24 CFR part 35.
 4. Certification by a certified lead-based paint inspector or risk assessor that; (1) all lead-based paint and hazards in the property have been identified; (2) all lead-based paint hazards have been reduced and controlled; and (3) that clearance has been achieved, in accordance with § 90-57.

B. The Department shall provide for a system of grants to property owners to aid in the performance of lead-based paint hazard reduction activities, within a budget to be set annually by the Council. Priorities for the issuance of such grants shall be established based on the goals of (1) detecting and abating or reducing lead-based paint hazards that are most likely to affect children under six years of age, and (2) minimizing exposure of children under the age of six years to lead dust hazards during lead reduction activities. The following guidelines shall be used:

1. Properties that are the residence of a child who has been diagnosed with a blood lead level in excess of 10 ug per deciliter;
2. Vacant properties which are made available to families with children under the age of six.;
3. Any other property that is the residence of a child under the age of six years;
4. Other vacant properties or properties scheduled for sale or lease within the next 12 months;
5. Any other residential property.

§ 90-57. Standards for inspection and clearance report.

A. Qualified personnel. Clearance shall be issued by a certified risk assessor or a certified lead-based paint inspector provided and paid for by the Commissioner. Cleaning of visible dust and debris shall be the responsibility of the occupant.

B. Required activities.

- (1) Where a visual assessment detects that deteriorated paint and/or visible amounts of surface dust, debris, or other residue are present, they must be corrected as required by § 90-55 prior to performance or continuation of any lead-based paint inspection as provided under § 90-54C, unless the deteriorated paint is determined not to be lead-based.
- (2) Where painted surfaces on the exterior of a property have been disturbed, a visual assessment shall be made of the ground and any outdoor living areas close to the affected exterior painted surfaces. Visible paint chips, in such areas shall be removed prior to the taking of dust samples for clearance.
- (3) An inspection provided under § 90-54C shall include wipe samples, submission of samples for analysis of lead, interpretation of sampling results, and preparation of a report. Examinations may be conducted in the dwelling units, common areas and exterior areas in accordance with the steps set forth in this section. One wipe sample shall be taken from one interior windowsill or from one window trough and one wipe sample shall be taken from the floors of each of no less than four rooms, hallways or stairwells

- (4) After conducting hazard reduction activities, one wipe sample shall be taken from one interior windowsill or from one window trough and one wipe sample shall be taken from the floors of each of no less than four rooms, hallways or stairwells within the containment area. In addition, one wipe sample shall be taken from the floor outside the containment area. If there are less than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells within the containment area shall be sampled.
- (5) For complaint driven inspections, the area of the dwelling unit or common area complained of shall be inspected.

B. Report.

- (1) The clearance examiner shall ensure that an examination report is prepared that provides documentation of the examination. The report shall contain the following information:
 - (a) The address of the property and, if only a part of a multi-family property is affected, the specific dwelling units and common areas inspected;
 - (b) The date(s) of the inspection;
 - (c) The name, address, and signature of each person performing the examination, including their EPA certification number;
 - (d) The results of the visual inspection;
 - (e) The results of analysis of wipe samples, in ug per square foot, by location of sample; and
 - (f) The name and address of each laboratory that conducted the analysis of the wipe samples, including the identification number for each such laboratory recognized by EPA under section 405(b) of the Toxic Substances Control Act, 15 U.S.C. 2685(b).
- (2) When abatement is performed, the report shall also include a detailed written description of the abatement, including abatement methods used, locations of rooms and/or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.

C. Clearance Standards.

The clearance levels for lead in dust are 40 $\mu\text{g}/\text{ft}^2$ for floors, 250 $\mu\text{g}/\text{ft}^2$ for interior windowsills, and 400 $\mu\text{g}/\text{ft}^2$ for window troughs. The clearance level for bare soil in play areas shall be 400 parts per million and in all other areas shall be 1200 parts per million.

With respect to porches, the standard for clearance shall be 400 ug per square foot, provided, however, that if a porch is found to contain more than 40 ug per square foot, the inspector or assessor shall advise the owner and the occupants of the property that the porch constitutes a potential lead-based paint hazard that requires continued caution and that the occupants should read and follow closely the information in the lead hazard information pamphlet regarding lead safe maintenance practices, including frequent washing.

D. Requirement to avoid conflict of interest regarding clearance inspection.

All clearance examinations shall be performed by persons or entities independent of those performing hazard reduction, rehabilitation, or maintenance activities.

E. A clearance report prepared pursuant to this section shall be advisory in nature. No liability shall be imposed on the City of Rochester or any of its officers or employees for erroneous findings in any such report, or for any negligence of any inspector or city personnel in connection with performance of a visual assessment, lead-based paint inspection, or clearance examination.

F. Where a clearance report has been issued under this section, the subject property shall be listed in the City's "lead-safe homes" database pursuant to § 90-65B.

§ 90-58. Lead-paint hazard reduction and control.

A. No person shall disturb or remove lead-based paint, or in any other way generate excessive dust or debris during work on the interior or exterior of any existing building or structure constructed after January 1, 1978, except in accordance with the requirements of this section and sections 90-59 and 90-60.

B. Sign required when lead-based paint or presumed lead based paint is disturbed:

- (1) Not later than the commencement of any lead-based hazard reduction work for which a building permit is required under § 39-207, the owner or contractor shall post a sign or signs in locations visible from all abutting rights of way stating the following:

LEAD-BASED HAZARD REDUCTION WORK IN
PROGRESS

PUBLIC ACCESS TO WORK AREA PROHIBITED

POSTED IN ACCORDANCE WITH CHAPTER 90 OF THE
CITY OF ROCHESTER CODE

FOR FURTHER INFORMATION, PLEASE CALL 428-6550

- (2) The sign required by this section shall be not less than 24 inches square and shall be in boldface letters not less than one-half inch in size. The sign required

by this section shall remain in place until the lead-based hazard reduction work has been completed.

- (3) The Commissioner shall provide signs **in both English & Spanish** meeting the requirements of this section to any person performing lead-based hazard reduction work in the city simultaneously with the issuance of a building permit, or within 24 hours of a written request therefor. No penalty shall be imposed on any owner or contractor if the required sign is not made available within the time required by this subsection, or the commencement of the work, whichever is later.
- (4) Where it is not possible or feasible to post signs in a conspicuous location as required by this section, the owner or contractor shall notify the occupants of the adjacent properties by first-class mail of the scheduled work at least three days prior to the commencement of the work.
- (5) The signs required by this subsection shall not be required where the hazard reduction work is confined to the interior of the dwelling.

C. Notice to tenants.

Except as provided in Subsection D of this section, where lead-based hazard reduction work is to be performed on the interior or exterior of buildings occupied by one or more tenants, not less than 24 hours before commencement of the work, the owner shall:

- (1) Provide written notice to all tenants of the building on which the work is being performed that lead-based hazard reduction work will be performed. The notice shall state the following:

Work is scheduled to be performed beginning (date) on this property that may disturb or remove lead-based paint. The persons performing this work are required to follow federal and local laws regulating work with lead-based paint. You may obtain information regarding these laws, or report any suspected violations of these laws, by calling the office of the Commissioner of Community Development of the City of Rochester at 428-6550.

- (2) Provide all affected tenants with a lead hazard information pamphlet.

D. Notice by contractor.

Where lead-based hazard reduction work is being performed by a contractor, the contractor shall provide the signs, notice and lead hazard information pamphlet as required by subsections B and C of this section.

- E. The Commissioner shall provide copies of form letters including the notice required by this section and the lead hazard information pamphlet to any property owner or

contractor subject to the requirements of this section within 24 hours of a written request therefor. No penalty shall be imposed on any property owner or contractor if the required form and pamphlet is not made available within the time required by this subsection, or the commencement of the work, whichever is later. The form notice shall also be made available on the City's Internet web site.

F. Early commencement of Work by Owner.

A property owner may commence, or may authorize a contractor to commence, lead-based hazard reduction work without, or less than 24 hours after providing the signs and notices required by this section when such work must be commenced immediately to correct an emergency condition. Such conditions include, but are not limited to, work necessitated by non-routine failures of equipment that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage.

G. Early commencement of work by tenant.

Upon request of a tenant, an owner may commence or authorize a contractor to commence lead-based hazard reduction work on that tenant's unit less than 24 hours after providing the notices required by this subsections D and E of this section.

H. No penalty shall be imposed for a violation of this section where the violation is a first offense for such violation unless it is demonstrated that the defendant had actual knowledge of the requirements of this section.

§ 90-59. Occupant protection and work site preparation

A. Tenant Protection.

(1) Tenants shall be permitted to relocate during hazard reduction activities. Where a tenant elects to relocate, he or she shall not be liable for any rents accruing during such activities and until a clearance examination has been successfully completed on that tenant's unit. However, this subsection shall not apply if:

(a) Treatment will not disturb lead-based paint or create lead dust hazards or soil-lead hazards or only de minimis conditions as defined in § 90-60E are to be corrected;

(b) Only the exterior of the building is treated, and windows, doors, ventilation intakes and other openings in or near the work site are closed or sealed during hazard reduction work and cleaned afterward, and entry of lead dust hazards, soil lead hazards and debris is prevented;

(c) Treatment will be completed within 30 calendar days, and the work site is contained so as to prevent the release of lead dust to other areas, treatment does not create other health, safety or environmental hazards, and at the end

of each day, the work site and all adjacent areas are cleaned to remove any dust or debris, and tenants have safe daily access to sleeping areas and kitchen and bathroom facilities.

- (2) The dwelling unit and the work site shall be secured against unauthorized entry, and the tenant's belongings protected from contamination from lead dust hazards and debris during lead hazard reduction activities. The tenants' belongings in the work site shall be relocated to an area outside the work site, or covered with an impermeable covering with all seams and edges taped or otherwise sealed.
- (3) Where the tenant elects to relocate as permitted in subsection (1) above, and hazard reduction activities will not be completed within sixty calendar days, the tenant shall have the right to terminate the lease. If the tenant elects to terminate the lease, he or she shall have no future rent obligation under that rental agreement, provided, however, that this subsection shall not relieve the tenant of the obligation to pay any previously accrued rent for which he is otherwise liable.
- (4) The provisions of this section shall not apply in cases where the condition requiring the hazard reduction activities was caused by the tenant, a member of the tenant's household, or a guest of the tenant.

(5) CLEANING BY TENANT

It is essential that in addition to property owners making units lead safe that tenants maintain clean units. As stated in the EPA pamphlet Protect Your Family From Lead in Your Home, tenants must also clean floors, window frames, window sills and other surfaces weekly. Wipe soil off shoes before entering and wash children's hands often, especially before they eat and before nap time and bed time. Keep children from chewing window sills or other painted surfaces.

It is a fact, that even if a house is lead free, lack of cleaning may produce failed lead screen wipes that is naturally in our environment. The provisions of this section shall not apply in cases where the housekeeping by the tenant is so inadequate that the lead dust wipes can not be taken.

B. Work site preparation.

Containment barriers shall be placed to prevent the release of lead dust and contain lead-based paint chips and other debris from hazard reduction activities within the work site until they can be safely removed. Practices that minimize the spread of lead dust, paint chips, soil and debris shall be used during work site preparation.

§ 90-60. Lead-safe work practices.

A. Lead-based paint shall not be applied to any exterior or interior surface of any structure.

B. Prohibited methods.

The following methods of paint removal shall not be used:

- (1) Open flame burning or torching.
- (2) Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.
- (3) Abrasive blasting without HEPA local exhaust control.
- (4) Heat guns operating above 1100 degrees Fahrenheit or charring the paint.
- (5) Dry sanding or dry scraping, except dry scraping in combination with heat guns or within one foot of electrical outlets.
- (6) Paint stripping in a poorly ventilated space with a paint stripper that is a physical hazard or a health hazard or which is toxic, corrosive, an irritant, flammable or combustible, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.
- (7) (alternative #6) Paint stripping with a chemical paint stripper in any manner inconsistent with the manufacturer's instructions.

C. Specialized cleaning.

After hazard reduction activities have been completed, the work site shall be cleaned using cleaning methods, products and devices that are successful in cleaning lead dust hazards, such as a HEPA vacuum or other method of equivalent efficiency, and lead-specific detergents or equivalent.

D. De minimis levels.

Safe work practices are not required when hazard reduction or rehabilitation activities do not disturb painted surfaces that total more than:

- (1) twenty square feet on exterior surfaces;
- (2) two square feet in any one interior room or space; or
- (3) Ten per cent of the total surface area on an interior or exterior type of component with a small surface area. Examples include windowsills, baseboards, and trim.

§ 90-61. Emergency actions, weather conditions.

- A. For emergency actions necessary to safeguard against imminent or immediate danger to human life, health or safety, or to protect property from further structural damage, including demolitions ordered pursuant to sections 47-16B and C of the Municipal Code, occupants shall be protected from exposure to lead in dust and debris generated by such emergency actions to the extent practicable. This exemption does not apply to any work undertaken subsequent to, or above and beyond such emergency actions, other than the demolitions noted above.
- B. Performance of lead-based paint hazard reduction on an exterior painted surface as required under this Article may be delayed for a reasonable time during a period, such as winter, when weather conditions render the completion of conventional construction activities impossible.

§ 90-62. Exceptions.

The provisions of this Article shall not apply to properties that are vacant and secured, provided however, that deteriorated paint on exterior painted surfaces which is lead-based or presumed lead-based shall be corrected unless the property is (1) scheduled for demolition or (2) scheduled for sale within one year.

§ 90-63. Prohibition of retaliatory Action.

- A. No prosecution of any kind shall be commenced by the City against the owner or occupant of a dwelling based on evidence revealed during a voluntary inspection.
- B. If a lead-based paint inspection reveals the existence of a lead-based paint hazard in a dwelling unit, and a child under the age of six years resides in said dwelling unit, the tenant shall have the right, but is not required to, vacate that unit, and if the tenant so chooses, may elect to terminate the lease. If the tenant elects to terminate the lease for the unit, he or she shall have no future obligation under that rental agreement from the date the tenant vacates the unit, however the tenant shall not be relieved of the obligation to pay any previously accrued rent for which he is otherwise liable.
- C. In an action or proceeding instituted against a tenant of premises or a unit to which this section is applicable, a rebuttable presumption that the landlord is acting in retaliation shall be created if the tenant establishes that the landlord served a notice to quit, or instituted an action or proceeding to recover possession, or attempted to substantially alter the terms of the tenancy, within six months after:
 - 1. A good faith complaint was made by or on behalf of the tenant, to a governmental authority of the landlord's violation of this Article; or

2. A lead-based paint hazard was revealed by an inspection made with the consent of the tenant.
- D. A tenant may assert a violation of this section as an affirmative defense in any action to recover real property or summary proceeding to recover possession of real property.
 - E. After six months from the date of an inspection or reporting of a suspected lead-based paint hazard, the defense of retaliatory eviction shall remain available to the tenant, but without the benefit of the presumption created by subsection C of this section.
 - F. The effect of the presumption created by subsection C above shall be to require the landlord to provide a credible explanation of a non-retaliatory motive for his acts. Such an explanation shall overcome and remove the presumption unless the tenant disproves it by a preponderance of the evidence.
 - G. This section shall apply to all rental residential premises except owner-occupied dwellings with less than four units. However, its provisions of this section shall not be given effect:
 1. In any action in which it is established that the condition from which the complaint or action arose did not exist, or was caused by the tenant, a member of the tenant's household, or a guest of the tenant, including by lack of routine cleaning and maintenance;
 2. In any action involving a complaint regarding a condition that has been the subject of a prior complaint for which no corrective action was ordered pursuant to section 90-55;
 3. Where a tenancy was terminated pursuant to the terms of a lease as a result of a bona fide transfer of ownership;
 4. In any action based upon nonpayment of rent, violation by the tenant of the terms and conditions of the lease or rental agreement, or commission of waste upon the premises by the tenant, a member of the tenant's household, or a guest of the tenant.

§ 90-64. Notification to the County of lead-based paint hazards.

The City shall send notices to the County of Monroe listing any health and safety violations found in lead-based paint inspections conducted by or at the direction of the City. Any lead-based paint hazards shall be included in that list.

§ 90-65. Databases for lead-safe properties.

- A. The City shall maintain a database, referred to as the "lead-safe homes" database, which shall list:

- 1) all properties that have successfully completed a clearance examination pursuant to this Article;
 - 2) all properties for which a certificate of occupancy has been granted after the effective date of this Article; and
 - 3) all properties where lead hazards have been identified, reduced and controlled with funds received by the City from the United States Department of Housing and Urban Development which require that such a database be maintained.
- B. The databases created pursuant to this Article shall be available for public inspection at the Department of Community Development at City Hall, and shall also be made available on the City's internet web site. No person requesting access to this database shall be required to complete a Freedom of Information request to view these databases.
- C. The databases maintained pursuant to this section shall be considered advisory in nature. All information disseminated from these databases shall state that the City does not assure that the property is or will remain free of lead paint hazards. No liability shall be imposed on the City of Rochester for erroneous or negligent inclusion of a property in these databases.

§ 90-63. Availability of Pamphlet.

The Department shall make copies of the Lead Hazard Information Pamphlet available free of charge upon written request, or in person at the Department of Community Development during normal business hours. The pamphlet shall also be made available on the City's web site.

§ 90-64. Disclosure of Known Lead-Based Paint Hazards

- A. Before a purchaser or tenant is obligated under any contract to purchase or lease any residential property, the seller or lessee shall disclose to the purchaser or tenant the presence of any known lead-based paint or lead-based paint hazards in or on the property. The seller or lessor shall also provide the purchaser or tenant with a list of any records or reports available to the lessor pertaining to lead-based paint or lead-based paint hazards in the property that have been provided to the seller or lessee. The seller or lessor shall also provide the tenant or lessee with a copy of the Lead Hazard Information Pamphlet, and a notice containing the following language:

Housing built before 1978 may contain lead based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

- B. Before a purchaser is obligated under any contract to purchase any residential property, the seller shall permit the purchaser a ten-day period (unless the parties agree, in writing, to a different period of time) to conduct a lead-based paint inspection or a risk assessment. The seller of a residential property shall also provide the purchaser with a copy of the Lead Hazard Information Pamphlet, and a notice containing the following language:

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

- C. Failure to provide such disclosure shall not be a breach of any warranty in a conveyance of real property, nor shall it be a defense to any claim made for waste upon the property or for non-payment of rent, nor shall it be a defense to any claim made under a policy of insurance issued to insure the property against fire or other casualty loss.
- D. Nothing in this section implies a positive obligation on the seller or lessor to conduct any evaluation or reduction activities.

Section 2. Section 90-16 of the Municipal Code, property maintenance, is hereby amended by repealing subsection A thereof, and by re-lettering subsections B and C as subsections A and B, respectively.

Section 3. This ordinance shall take effect one hundred twenty days after the date of its adoption.